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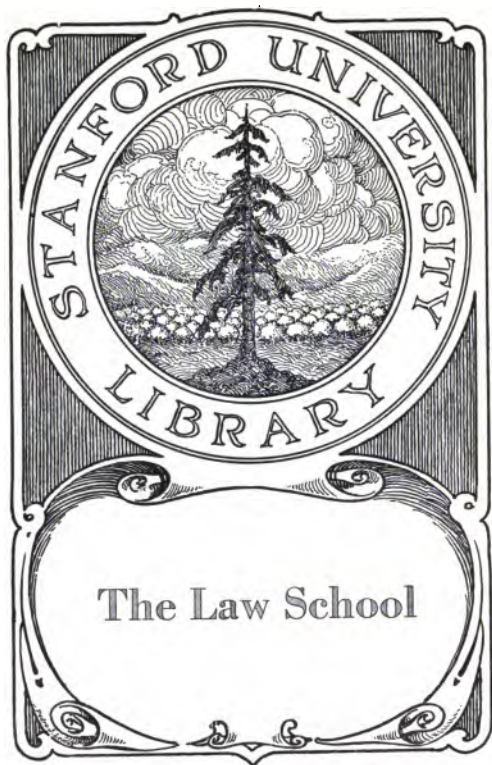
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Lenora M. 1884

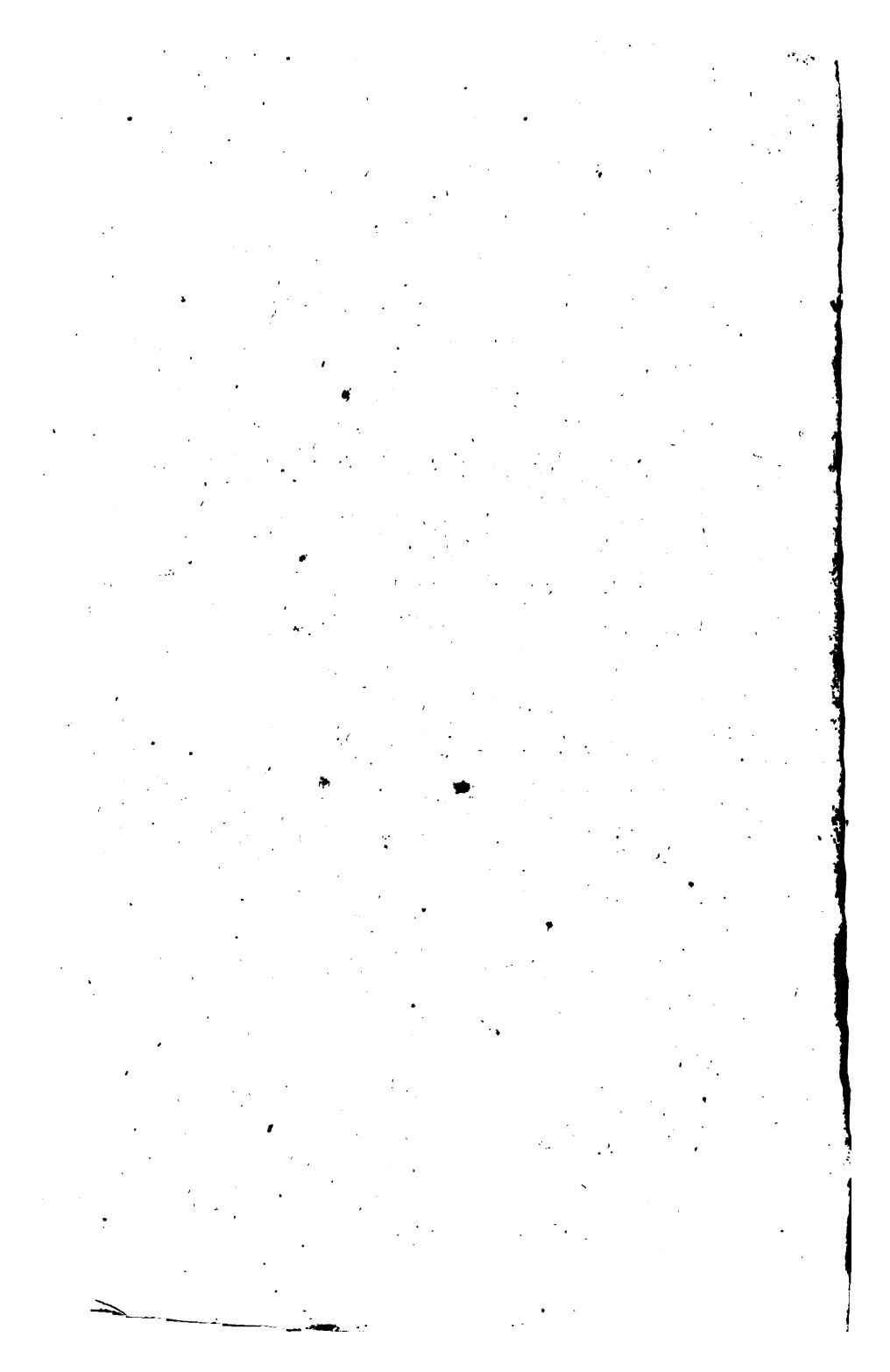


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ACTS

PASSED AT THE FIRST SESSION

OF THE

THIRTY-THIRD GENERAL ASSEMBLY

FOR THE

COMMONWEALTH OF KENTUCKY,

BEGUN AND HELD IN THE TOWN OF FRANKFORT, ON MONDAY THE
FIRST DAY OF NOVEMBER, IN THE YEAR OF OUR LORD 1824, AND
OF THE COMMONWEALTH THE THIRTY-THIRD.

JOSEPH DESHA, GOVERNOR.

ROBERT B. M'AFEE, *Lieut. Governor and Speaker of the Senate.*

ROBERT J. WARD, *Speaker of the House of Representatives.*

PUBLISHED BY AUTHORITY.

FRANKFORT:

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PRINTERS FOR THE STATE.

1825

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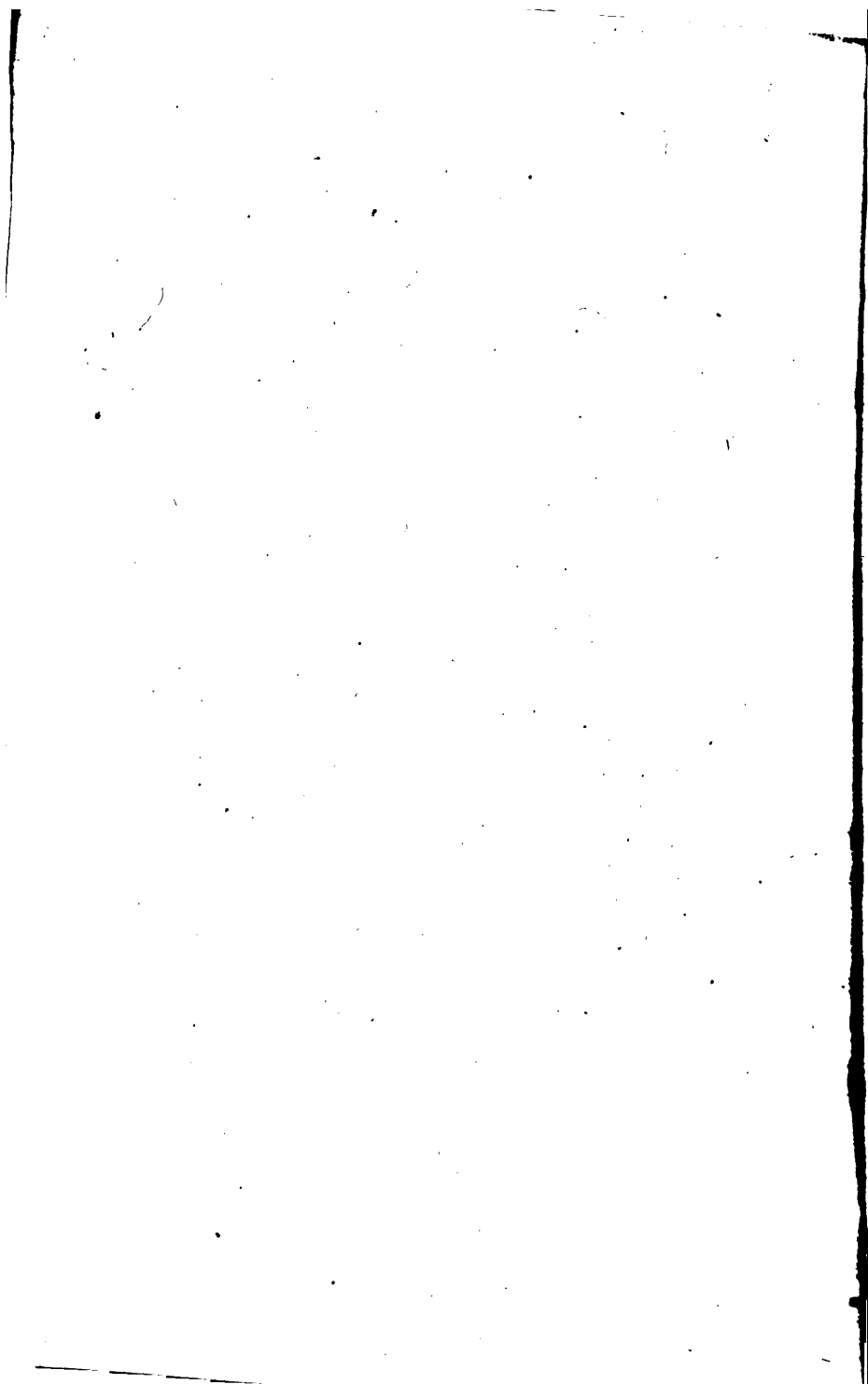
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ACTS
OF THE
GENERAL ASSEMBLY
OF
KENTUCKY.

CHAPTER 1.—An ACT to prolong the November term of the Bourbon Circuit Court.

1824.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, the November term of the Bourbon circuit court shall continue thirty juridical days, if the business of the said court shall require it.

[Approved, November 5, 1824.]

CHAP. 2.—An ACT to amend the law regulating the election of Electors.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That after the passage of this act, it shall and may be lawful for any qualified voter, entitled to vote for Electors of President and Vice-President of the United States, who, at the time of any election for Electors, may be absent from the county in which he resides, to give his vote at any place of voting at which he may be at the time of such election.

Where electors may be voted for.

Sec. 2. *Be it further enacted,* That the Judges of any such election may cause to be administered to any person offering to vote, an oath that they have not voted at any other place, during that election, nor will not.

Sec. 3. *Be it further enacted,* That any person who shall be convicted of having voted twice, shall be subject a fine of ten dollars, recoverable before any justice of the peace in this Commonwealth.

Penalty for voting twice.

[Approved, November 10, 1824.]

1824.

CHAP. 3.—An ACT to authorise the Secretary of State to furnish the Clerks of the Circuit and County Courts of the Counties of Spencer, Meade, Oldham and Graves, with a Digest of the Statutes, and for other purposes.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the clerks of the circuit and county courts of the counties of Meade, Oldham, Spencer and Graves, shall be entitled to receive from the office of the Secretary of State, such books, maps, &c. for the use of the courts and officers in said counties respectively, as other counties in this Commonwealth are now by law entitled to.

[Approved, November 13, 1824.]

CHAP. 4.—An ACT to extend the terms of the Bracken Circuit Court.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter it shall and may be lawful for the Judge of the Bracken circuit court to continue each term of said court twelve judicial days, if the business therein should require it, any law to the contrary notwithstanding.

[Approved, November 13, 1824.]

CHAP. 5.—An ACT providing for the appointment of a Clerk to the General Court.

Preamble.

WHEREAS the office of the Clerk of the General Court of Kentucky, has become vacant, by the death of the late incumbent, and it being represented that the public good, as well in reference to the collection of the revepue, as to individual rights, requires that said office should be filled as soon as practicable:

A special term of the court to be held on the 4th Monday of November.

Sec. 1. *Be it therefore enacted by the General Assembly,* That the Judges of the 5th and 12th judicial districts, and such one or more of the circuit Judges of this State, as may be enabled to convene at the court-house in Frankfort, on the fifth Monday in November 1824, hold a special term, and then and there proceed to the appointment of a qualified clerk to said court, in the same manner, and under the same rules and regulations as would be observed and pursued at a regular term of said court.

The court may stand adjourned for 6 days.

Sec. 2. *Be it further enacted,* That in case the said Judges of the said court shall not appear at the said court-house in Frankfort, to open and hold said special term of said court, on the said fifth Monday in Novem-

ber 1824, the same may stand adjourned from day to day, for six successive days, or until said Judges of said court can meet and make the appointment of clerk, as herein before provided for.

1824.

Sec. 3. *Be it further enacted*, That in case no appointment of a clerk is made on the first day on which said Judges of the general court may convene for that purpose, under the provisions of this act, they shall have power to adjourn from day to day, until the said appointment be effected. May adjourn from day to day

[Approved, November 13, 1824.]

CHAP. 6.—An ACT to legalize the proceedings of the County Court of Graves County.

WHEREAS it is represented to this General Assembly, Preamble. that the act to establish the county of Graves, approved December 17, 1823, authorised the first county court for said county to be held on the 15th day of January 1824; that in consequence of the commissions for the officers in said county, not having been received, the court did not hold their first term until the second day of February 1824; and whereas doubts exist, as to the legality of their proceedings: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the proceedings of said county court of Graves county, held on the second day of February 1824, be, and the same are hereby declared legal and valid, to all intents and purposes, to the full extent they would have been, if done and performed on the day appointed by law. Proceedings legalized.

[Approved, November 13, 1824.]

CHAP. 7.—An ACT to provide for the safe-keeping of Francis Erwin.

WHEREAS it is represented to the present General Assembly, that Francis Erwin is confined in the jail of Ohio county, for the murder of — Maxwell, and that the jail is insufficient for his safe-keeping, without a guard, and the expence, in consequence thereof, must be a county charge which will be extremely oppressive: For remedy whereof, Preamble.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That as soon as convenient after the passage of this act, the sheriff of Ohio county Sheriff of Ohio to convey him to Breckinridge county.

1824.

shall convey to the jail of Breckinridge county, the said Erwin, and there deliver him to the jailer of said county, together with a copy of the indictment where-with he stands charged, whose duty it shall be safely and securely to keep said prisoner, until he shall again be demanded by the sheriff of Ohio county.

Prisoner to be
brought back
to Ohio county

Sec. 2. *Be it further enacted*, That the sheriff of Ohio county shall, within ten days preceding the next term of the Ohio circuit court, convey the said Erwin from the jail of Breckinridge county to the county of Ohio, and deliver him to the jailer thereof, to be safely kept, as if this act had not been passed.

Expences, how
to be paid.

Sec. 3. *Be it further enacted*, That the expence of conveying said Erwin to and from the Breckinridge jail, shall be paid by Ohio county, and the county court are hereby authorised and required to levy the same; and the jailer of Breckinridge county shall be paid as provided for by law in other cases.

[Approved, November 17, 1824.]

CHAP. 8.—An ACT for the benefit of the deputies of James Chambers, deceased, late Sheriff of Mason county.

Auditor to is-
sue a warrant.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of public accounts be, and he is hereby authorised and directed to issue his warrant on the Treasurer, to Charles Ward, Winslow Parker and Jasper S. Morris, deputies of James Chambers, deceased, late sheriff of Mason county, for the amount of the delinquent list in the revenue of Mason county for the year 1822, provided the amount of said delinquent list has not been credited to the said James Chambers, sheriff as aforesaid, in the revenue of said county for that year.

[Approved, November 17, 1824.]

CHAP. 9.—An ACT to amend the law establishing the Turnpike and Wilderness Road.

Preamble.

WHEREAS it is represented to this present General Assembly, that the big hill in the county of Madison, over which the turnpike road runs, leading to the Cumberland Gap, is difficult to be kept in repair, in consequence of the timber convenient to said road being entirely exhausted, and thereby rendering it extremely difficult to ascend or descend said hill in the winter season; and whereas it is further represented,

that a much nearer and better way can be had, than crossing said hill: Wherefore,

1824.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the commissioner appointed by the county court of Madison, in pursuance of the act establishing said turnpike road, shall, from and after the passage of this act, commence and open a road from the foot of said big hill, running up Station Camp creek, so as to intersect said turnpike road between Thomas M'Levin's and Thomas Francis'; and the same, when opened, to be kept in repair in the same manner as is now provided for by law, from the toll receivable from the keeper of the turnpike gate, any law to the contrary notwithstanding.

Commissioner
to open road.

How paid for.

Sec. 2. *Be it further enacted*, That it shall be lawful for the county court of Madison, upon the application of Thomas M'Levin, to issue a writ of *ad quod damnum*, to ascertain the damages, if any, the said M'Levin may sustain by the road running over a part of his land; which shall be executed in the same manner other writs of *ad quod damnum* are now directed by law, and the damages so awarded by a jury, shall be paid out of any funds the commissioner may have in his hands, appropriated by law for keeping said turnpike road in repair,

Madison coun-
ty court to is-
sue a writ of *ad*
quod damnum.

Damages, how
paid.

[Approved, November 17, 1824.]

●CHAP. 40.—An ACT for the benefit of the heirs and devisees of Cliff Hazlewood, and of the devisees of Jacob Bale.

WHEREAS it is represented to the present General Assembly, that Cliff Hazlewood, late of the county of Green, departed this life leaving a tract of land in the neighborhood of Greensburg, and a number of children, some of whom are infants under the age of twenty-one years, and that the said tract of land cannot be conveniently divided; and the widow and children have petitioned for a law authorising the sale of said land: Therefore,

Recital.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be lawful for the widow and children of said Cliff Hazlewood, to apply, by petition in writing, to the circuit court of Green county; which court, after appointing a guardian to superintend the rights of said infants, shall and may make an order directing the sale and conveyance of said land, and shall appoint one or more

Circuit court
of Green au-
thorised to de-
cree a sale and
conveyance of
certain land
belonging to
the devisees of
Hazlewood.

1824.

suitable persons as commissioners to make said sale and conveyance.

Sec. 2. *And be it further enacted*, That the court may, if it should be thought advisable, direct the sale of said land to be made upon some reasonable credit, and shall cause the said commissioner or commissioners to make report of the sale, conveyance and other proceedings, to court, which, upon being approved of by said court, shall be entered of record therein.

To take bond
of the guardian
of the infants,
&c.

Sec. 3. *And be it further enacted*, That the court, at the time of making the order of sale and conveyance, shall take from the guardian or guardians of said infants, bond with approved security, to pay to said infants their respective proportions of the price of said land, at such times as the said infants may respectively arrive of lawful age and demand the same.

Recital.

And whereas it is also represented to the present General Assembly, that Jacob Bale, late of Green county, departed this life, having first made his will, and left to two of his infant sons, among other property, the bed of Brush creek, commencing some distance below said Bale's mill, and extending down to the lower line of Sinclair's survey, and it is believed it would be of advantage to the said infant sons, that their interest in said property should be sold: Wherefore,

Said court also
authorised to
decree the sale
of certain land
belonging to
Bale's devisees

Sec. 4. *Be it further enacted by the authority aforesaid*, That it shall and may be lawful for the said sons of the said Jacob Bale, by guardian or next friend, to apply to the circuit court of Green county, by petition in writing, for a sale of said property, upon which the court may order and direct a sale and conveyance of said property, upon such credit as may be esteemed reasonable, and shall appoint a commissioner to make said sale and conveyance, first having appointed a guardian to superintend the interest of said infants, and taken bond with approved security, of such guardian, to pay to said infants, at such times as they may respectively arrive at age, their respective proportions of the money arising from said sale.

Sec. 5. *And be it further enacted*, That the said commissioner appointed by the court to make said sale and conveyance, shall make report of the sale, conveyance and other proceedings, to said circuit court, which being approved of, shall be entered of record in said court.

Sec. 6. The guardian, in either of the above mentioned cases, shall receive the proceeds of the sales;

and any bond or bonds taken on a sale upon credit, shall be made payable to the guardian of the infants.

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[Approved, November 20, 1824.]

CHAP. 11.—An ACT for the benefit of the widow and heirs of Thomas Bullitt.

WHEREAS it is represented, that Thomas Bullitt, late of Jefferson county, departed this life possessed of a large real estate in the said county of Jefferson, leaving a widow, who has administered on his estate, and several children, who are infants, and not leaving assets sufficient for the payment of all his debts; in consequence whereof, it is apprehended that said real estate will be subjected to great loss, and perhaps eventual ruin, unless provision be made by law for the application of a portion of it to the payment of said debts, without coercive sale by execution: Wherefore,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the circuit court of Jefferson county, sitting in chancery, shall have power, on the joint application of the administratrix of the estate of the said Thomas Bullitt, deceased, and of his heirs, by their guardian *ad litem*, (to be appointed as hereinafter directed,) to decree the sale of so much of said real estate in the said county of Jefferson, as he shall deem necessary for the payment of debts due, and which may hereafter become due against said estate, on such terms, and in such mode, as he may consider most conducive to the interest of the personal and real representatives of said decedent, and direct the proceeds of such sale to be paid over to the said administratrix, on her acknowledging in open court, a bond with approved security, in the penalty of at least double the amount of sale, payable to the aforesaid heirs, with a condition that she will faithfully apply to the payment of said debts, the whole amount so paid over to her; which bond shall be filed and made a part of the records of said court, for the security of said heirs.

Recital.

Jefferson circuit court authorised to decree a sale and conveyance of real estate, for the payment of debts.

Proceeds to be paid to the administratrix, upon her giving bond.

Sec. 2. It shall be the duty of the Judge of said court, on the application of the said heirs, to appoint a guardian *ad litem*, for each of them, for the purpose of enabling him to execute the power vested in him by the foregoing section; whose duty it shall be, in the event of any portion of said estate being sold by decree of said court, to make a legal title thereto, to the purchaser or purchasers, by deed of general warranty, in the name

Deeds of conveyance to be made to the purchasers, by order of the court.

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and behalf of the aforesaid heirs; which deed or deeds shall vest the absolute legal title to the property thereby conveyed, in the conveyee or conveyees, free from any claim by said heirs forever.

The court may authorise mortgages of real estate to creditors.

Sec. 3. The said court shall have power, if it shall deem it expedient and advantageous to the interest of said heirs, to authorise their said guardian *ad litem*, on his application by petition, to mortgage any portion of said estate, in the name of said heirs, for the payment of such creditors as shall be willing to accept such security, which shall pass the legal title to the mortgagee or mortgagees, as effectually as if said infant heirs were adults, and had conveyed in their own names, and by their own voluntary act, any law or usage to the contrary notwithstanding.

[Approved, November 20, 1824.]

CHAP. 12.—An ACT to extend indulgence to the Judges of the 13th and 11th judicial districts.

Further time given to remove into their districts.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That in addition to the time now allowed by law, the Circuit Judges in and for the 13th and 11th judicial districts, to move into, and reside within their districts, the further time of twelve months be allowed them for that purpose.

[Approved, November 25, 1824.]

CHAP. 13.—An ACT to annul the marriage of George and Polly Utley.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage of George Utley with his wife Polly, be, and the same is hereby annulled and vacated, and set aside, to all intents and purposes; and the said George and Polly are hereby declared to be as free, to all intents and purposes, and in the same situation as if the said marriage had never taken place.

[Approved, November 25, 1824.]

CHAP. 14.—An ACT for the benefit of Peter Mills.

Recital.

WHEREAS it is represented to the present General Assembly, that Francis Mills died some time since, leaving a widow and several children; and that he also left sundry slaves, and in the division of the slaves, a

negro man slave by the name of Baptist, was allotted to Peter Mills, his son, now an infant under twenty-one years of age; and that the said negro man is of such bad habits and character, that he cannot be hired so as to produce a reasonable profit to said infant; and the guardian of said infant has petitioned, that a law may pass authorising a sale of said negro, for the benefit of said Peter Mills: Wherefore,

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Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be lawful for the said Peter Mills, by his guardian, to apply to the circuit court of Union county, by petition or bill in chancery, verified by affidavit; whereupon, if it shall appear to the court more advantageous to said infant, that the said slave should be sold than retained, it shall and may be lawful for said court to enter up an order, directing a sale, either for money in hand or upon some reasonable credit, to be expressed in said order; and shall also appoint, either the guardian of said infant, or some suitable person, to make said sale.

Union circuit court may order a slave to be sold.

Sec. 2. *And be it further enacted*, That it shall be the duty of said court, at the time of directing said sale, to require the guardian or other person appointed to make said sale, to give bond with good and sufficient security to said infant, for the proceeds of the sale of said negro, with interest thereon, and may make any order thereupon, which may be necessary to secure the interest of said infant; and moreover, shall cause the said guardian or person making said sale, to make report to court, of his proceedings, and shall direct said report to be filed and preserved.

Guardian to give bond.

[Approved, November 25, 1824.]

CHAP. 15.—An ACT to provide a room for the Court of Appeals.

WHEREAS the law as it at presents stands, requires the Court of Appeals to sit in the Capitol, and as said house has been unfortunately consumed by fire: For remedy whereof,

Recitals

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Sergeant of said court be, and he is hereby authorised and required to provide a room in the town of Frankfort, for the accommodation of said court; which room so provided, the said court shall hold its sessions in, until otherwise required by law.

The Sergeant directed to procure a room for the court.

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\$100 appropriated for that purpose.

To procure the necessary furniture for said room.

Sec. 2. That the Sergeant of said court shall be allowed after the rate of one hundred dollars per annum, out of any money in the Treasury not otherwise appropriated, to pay for the use of said room, which the Auditor shall draw his warrant on the Treasurer for, upon the said Sergeant's producing to him a certificate from said court, that a room has been furnished agreeable to the provisions of this act.

Sec. 3. That said Sergeant be, and he is hereby authorised to provide such furniture and other conveniences for said room, as is usual and customary; which shall be paid for in like manner, on his producing a certificate from said court, approving of the claim as just and reasonable.

[Approved, November 25, 1824.]

CHAP. 16.—An ACT for the benefit of Barbara Price.

WHEREAS Barbara Price, of Adair county, in this state, represents that her deceased husband, Thomas Price, was at his death entitled by assignment to a certificate for one hundred acres of land, granted by the county court of Adair county, in the month of August, one thousand eight hundred and five, to John M'Carty, number two hundred and ninety-four; which certificate was duly surveyed, but was not registered as required by law, and that the original papers were all casually burned; and whereas the said Barbara also represents, that she is settled on said land in said county of Adair, with her children, and is unable to pay the balance due for said land to the state, in consequence whereof, she is unable to procure a patent for said land:

Sec. 1. *Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky,* That the balance of the state price yet due for said certificate, be remitted; and that the Register of the land-office of this state, is hereby authorised and required, (upon the payment of the legal fee for issuing the patent,) to issue a patent to the said Barbara Price, for the aforesaid one hundred acres of land, lying in the county aforesaid, on the Salt Lick branch of the Sulphur Fork of Russell's creek, beginning at a hickory and maple on Herriman's line, thence with said line north one hundred and forty poles to a post-oak and three dogwoods on Herriman's line, thence west one hundred and four-

teen and a half poles to two small dogwoods, thence south one hundred and forty poles to a dogwood and hickory, thence east one hundred and fourteen and a half poles to the beginning.

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Sec. 2. And be it further enacted, That the patent, when issued according to the provisions of the first section of this act, shall vest an estate for life only, in the said tract of land, to said Barbara Price; and upon her death, the aforesaid tract of land with its appurtenances, shall pass and descend to the infant children of the said Barbara Price, by her deceased husband, Price.

[Approved, November 25, 1824.]

CHAP. 17.—AN ACT to establish the line between Oldham and Henry Counties.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That Edmund Bartlett and Nicholas L. Oliver of Henry county, and Samuel Rouzee of Oldham county, be, and they are hereby appointed commissioners, to run and mark that part of the dividing line between the counties of Henry and Oldham, which lies between John W. Burriss and the road leading from New-Castle in Henry county, to Westport in Oldham county; and said commissioners, being first sworn before some justice of the peace of Henry or Oldham county, to perform the duties imposed by this act, justly and truly, without partiality, favor or affection, shall, as soon as convenient, run and mark said division line, and in running the same, shall run it from the point one hundred poles east of the house of John W. Berry, so as to strike a point upon the road leading from New-Castle to Westport, ten miles from New-Castle, upon a straight line; which line, when thus run, shall be the true line; and the commissioners shall report the same to the Henry and Oldham county courts, which report shall be recorded by the clerks of said county courts.

Commissioners appointed to run and mark the line.

To be sworn.

Their report to be recorded, and the line so run to be established.

[Approved, November 25, 1824.]

CHAP. 18.—AN ACT for the benefit of Thomas Burgess (a free mulatto.)

WHEREAS it is represented to this present General Assembly, that Thomas Burgess, a free mulatto, migrated to this state when quite a youth, and has resided within the same for the last eight years, during which

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period, he has demeaned himself as an honest, industrious, peaceable man: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Thomas Burgess be, and he is hereby exempt from the provisions of an act entitled "an act to prevent the future migration of free negroes and mulattoes to this state;" and that the said Thomas be, and he is hereby vested with all the rights and privileges to which he would have been entitled, if born within this state.

[Approved, November 25, 1824.]

CHAP. 19.—An ACT for the benefit of Henry B. Montague.

WHEREAS it is represented to this General Assembly, that one John Patton, of Simpson county, did, in the year one thousand eight hundred and twenty-three, convey by deed to one Robert Nicholson, a lot of ground in the town of Franklin, and county aforesaid, known in the plan of said town by number twenty-five; and in the same year, the said Nicholson did, by his deed, convey to Henry B. Montague, one half of said lot; and said Nicholson being an alien at the time of making said conveyance, and doubts are entertained as to the validity of his title: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said conveyance be, and the same is hereby declared to be as good and valid in law, as if the said Nicholson had been a naturalized citizen at the time of making said conveyance, any law to the contrary notwithstanding.

[Approved, November 25, 1824.]

CHAP. 20.—An ACT to authorize the inhabitants of the Town of Owenborough, to elect the Trustees of said Town.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful for the inhabitants of the said town of Owenborough, to elect seven trustees for said town, who shall continue in office twelve months from the time of their election, or until others are duly elected and qualified to serve.

SEC. 2. That said trustees, when elected, shall have the same power and authority as is given to the trustees authorized to be appointed by an act of the General As-

The citizens of the town may elect trustees therefor, annually.

Their powers.

sembly, entitled "an act to establish and regulate the town of Rossborough, in Daveiss county, and change the name thereof," and also, all the general powers and authority vested in the trustees of other towns in this State.

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Sec. 3. That it shall and may be lawful for every free white male inhabitant, over the age of twenty-one years, who shall have been a *bona fide* citizen of said town for six months previous thereto, to vote at said elections, which shall be held at the court-house in the town of Owenborough.

Qualification of electors.

Sec. 4. That the election for the year one thousand eight hundred and twenty-five, shall be held on the second Monday in May next, and on the second Monday in August in each succeeding year.

Times of holding the annual elections for trustees.

Sec. 5. *Be it further enacted*, That it shall be the duty of the county court of Daveiss county, at their March or May term, one thousand eight hundred and twenty-five, and at their May or June term, in each succeeding year, to appoint two fit persons to act as judges of said election, and that it shall be the duty of the clerk of the Daveiss county court, or his deputy, to act as clerk of said election.

The county court of Daveiss to appoint judges to conduct the elections.

Sec. 6. *Be it further enacted*, That if the said county court of Daveiss county, shall, in any year, fail to appoint judges of the election of trustees, at the terms aforesaid, it shall be the duty of the oldest justice of the peace in said town of Owenborough, to act as the judge of said election.

On their failure to do so, the oldest justice to preside at the elections.

Sec. 7. It shall be the duty of the said clerk, to give ten days' notice at the court-house door, by advertisement in writing, of the time and place of holding said election.

Notice to be given of elections.

Sec. 8. The said judges and clerk shall keep the polls open one day only, at each election, and receive for their services, one dollar per day each, to be paid by the treasurer of said board of trustees.

Pay of judges and clerk, &c.

[Approved, November 25, 1824.]

CHAP. 21.—An ACT for the benefit of James M'Caughan.

WHEREAS it is represented to this General Assembly, that James M'Caughan, of the county of Trigg, obtained a Kentucky land-office warrant for four hundred acres of land, which he caused to be surveyed on lands in said county; but owing to an omission by the surveyor, in not inserting the name of the county, the survey

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was rejected by the Register, and before the error could be corrected, the land was located and surveyed by another person, and the warrant having been endorsed "satisfied," by the deputy surveyor of Trigg county, it cannot be located on any other land: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That on the said James M'Caughan's returning to the Register of the land-office, the original warrant, number twelve thousand four hundred and twenty-nine, for four hundred acres of land, it shall be the duty of the Register, and he is hereby required to cancel the same, and issue another warrant in the name of the said James M'Caughan, for the same quantity of acres; which shall be as good and valid as if the same was an original warrant,

[Approved, November 25, 1824.]

CHAP. 22.—An ACT to authorize the taking of depositions in certain cases at common law.

The depositions of judges may be taken and read in certain cases, in suits at common law.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That in any action at common law, where a Judge of the Court of Appeals or Circuit Judge, is a witness, either plaintiff or defendant may take the deposition of such Judge or Judges, without a *dedimus*, by giving to the opposite party reasonable notice of the time and place of taking said deposition or depositions, and the same may be read in chief, provided it shall appear to the court before whom said cause is tried, that said Judge or Judges are attending to their official duties, so as to prevent their attendance.

[Approved, November 25, 1824.]

CHAP. 23.—An ACT to authorize the insertion of advertisements in the Kentucky Farmer.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful to insert and publish in the Kentucky Farmer, printed in Versailles, any and all advertisements which are required and authorized to be published in any newspaper in this Commonwealth, except such advertisements as are required by law to be published in the paper of the public printer only; and the editors of said paper shall be governed by the same rules, and entitled to the same fees, as other printers in this Commonwealth.

[Approved, November 25, 1824.]

CHAP. 24.—An ACT appointing a Commissioner of the road from Mountsterling to the Virginia line, by the way of Prestonsburg, and to instruct the Commissioners in relation to the same.

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SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That William M. Smith, of Floyd county, be, and he is hereby appointed a commissioner of the road from Mountsterling to the Virginia line, by way of Prestonsburg, in the stead of Henry B. Mayo, resigned; and said Smith, after taking an oath before some justice of the peace for Floyd county, well and faithfully to discharge the duties of commissioner of said road, shall possess all the powers and discharge all the duties of a commissioner as aforesaid, and shall be entitled to the same compensation as the other commissioners of said road, and be paid in the same manner.

A commissioner appointed in the place of H. B. Mayo.

To possess the same powers, &c.

SEC. 2. *Be it further enacted*, That when any undertaker of said road shall inform the commissioners, or a majority of them, that the particular part of said road, so undertaken by him or them, is finished, it shall be the duty of the said commissioners, upon their oaths, to examine such part of said road, and if they shall find the same finished and completed agreeably to the condition of his or their bond, the said commissioners shall receive said road and receipt to such undertaker or undertakers, for the part of the road so undertaken by him or them; but if the said commissioners shall, upon a careful examination of said road, be of opinion that the same is not cut out, dug and improved, agreeably to the condition of his bond, examining especially on hill-sides and other places, whether the said road is durable and will not slide off or otherwise fall, and examining particularly the bridges required to be built, whether the same are well built and of good materials, and whether, in every respect, the said road fulfils the condition of the bond of such undertaker, then the said commissioners shall refuse to receive said road, and shall withhold so much of the money stipulated for with such undertaker or undertakers, as may not have been paid over, and shall direct a suit to be brought on his or their bond; or the said commissioners may, if they see proper, give a further reasonable time to such undertaker or undertakers, in which to finish said road; and if he or they shall not, within the time so fixed upon by the said commissioners, finish said road agreeably to the conditions of his said bond, the said commissioners shall withhold the payment as aforesaid, and shall

The commissioners to examine said road, and to receive the same if finished agreeably to contract.

If not so completed, to institute suits against the undertakers on their bonds, or give longer time for its completion, and withhold the payment for the same until so completed.

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direct suit to be brought on said bond as aforesaid; and all moneys recovered in any suit upon the bond of any undertaker of said road, shall, by said commissioners, be applied to the improvement of said road.

[Approved, November 30, 1824.]

CHAP. 25.—An ACT appropriating money for the use of the Penitentiary.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the sum of five hundred dollars, be, and the same is hereby appropriated, for the purpose of furnishing diet and clothing for the support of the convicts in the Penitentiary.

Sec. 2. That the Auditor of Public Accounts shall, from time to time, issue his warrant or warrants upon the Treasury, in favor of the keeper, for any part of the said fund, upon receiving the order of the Governor for that purpose.

[Approved, November 30, 1824.]

CHAP. 26.—An ACT to alter the time of holding the Jefferson County Courts.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of January next, the county court for the county of Jefferson, shall be held on the first, instead of the second Monday in each month.

The county courts to be held on the 1st Monday of each month.

Sec. 2. That the said county court shall lay the county levy of the said county of Jefferson, in the month of October, or in the month of December, in each year, after the passage of this act.

The levy courts to be held in October or December.

Sec. 3. That a majority of the justices of the peace of the said county of Jefferson, shall attend at the March, instead of the April term of the said court, in each year, and at such March term, hear and dispose of such business of said court, as shall require a majority of the said justices; and that all laws which require a majority of the said justices to attend at the April terms of the said court, shall be, and the same are hereby repealed.

A majority of the justices required to attend the March terms annually.

Sec. 4. That the county court of Jefferson county, shall not be held in any month, so as to interfere with the sitting of the Jefferson circuit court, at its regular terms in each year, and the transaction of its regular business.

The terms of the county court not to interfere with any regular term of the circuit court.

[Approved, November 30, 1824.]

CHAP. 27.—An ACT allowing additional Justices of the Peace to certain Counties in this Commonwealth.

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BE it enacted by the General Assembly of the Commonwealth of Kentucky, That there shall be appointed and commissioned according to law, one additional Justice of the Peace for the county of Adair, to reside in the neighborhood of William Stephens, sen. on the waters of Wolf creek; the county of Casey, two, one of whom to reside on Carpenter's creek, the other on the south fork of Green river; the county of Boone, one, to reside in the town of Petersburg; the county of Mercer, one, to reside in one and one half mile of the extended limits of the town of Perryville; and the county of Breckinridge, one in addition to the number now allowed by law.

[Approved, December 3, 1824.]

CHAP. 28.—An ACT to authorise the insertion of certain Advertisements in the Western Herald and Farmers' Register.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the Editors of the Western Herald, printed in Bardstown, and the Farmers' Register, printed in Flemingsburg, be authorised to insert in their papers, all advertisements which are now required by law to be inserted in any public newspaper in this Commonwealth, except such as are required by law to be published exclusively in the paper of the public printer.

[Approved, December 3, 1824.]

CHAP. 29.—An ACT to change the venue in the case of Isaac B. Desha.

WHEREAS it is represented to the present General Assembly, that Isaac B. Desha is now in the jail of Fleming county, having been committed on a charge for the murder of a certain Francis Baker, and that owing to existing prejudices against said Desha, in said county, it is apprehended that he cannot have a fair and impartial trial: For remedy whereof,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Judge of the Fleming circuit court shall hold a term for the trial of the said Isaac B. Desha, on the second Monday in December next; and if, from any cause, court should not be holden on that day, then as soon thereafter as practicable.

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Isaac B. Desha
to have his e-
lection to be
tried in Flem-
ing or Harrison
circuit court.

Sec. 2. That upon the calling of the cause, the said Isaac B. Desha shall have his election, either to be tried in the Fleming circuit court, or the Harrison circuit court; and upon his electing to be tried in the Harrison circuit court, and the same being entered of record, the sheriff of Fleming county shall forthwith convey said Isaac B. Desha, under a sufficient guard, to the jail of Harrison county, there by the jailer to be safely kept, until discharged by due course of law.

Clerk to trans-
mit papers, &c.

Sec. 3. That the clerk of the Fleming circuit court shall, upon said Desha's being removed to Harrison county, transmit to the clerk of the Harrison circuit court, all the original papers filed in said cause, and the Judge of the Fleming circuit court is hereby directed to recognize the witnesses on behalf of the Commonwealth to appear at the first term of the Harrison circuit after said removal.

Harrison cir-
cuit to have
full power and
jurisdiction.

Sec. 4. That if the said Isaac B. Desha shall elect to be tried in the Harrison circuit court, then and in that case the said court shall have as full and ample power and jurisdiction over said cause, as if the offence had happened in the county of Harrison, and shall hear and determine the same, under the same rules and regulations as are now prescribed by law for the trial of like offences, and the like power to compel the attendance of witnesses.

A new prose-
cution may be
commenced.

Sec. 5. *And be it further enacted,* That if the papers and proceedings against the said Desha, should, by any accident or neglect, not be sent to the Harrison circuit court, said Desha shall take no advantage thereof; but a new prosecution may be commenced against him, as though the offence had been committed in the county of Harrison, if necessary.

Clerk of Flem-
ing to forward
copy of steps,
&c.

Sec. 6. The clerk of the Fleming circuit court shall copy all the steps and orders taken in said cause, and also make out a list of all the original papers, and certify the same under his hand, and forward this document with the original papers, to the clerk of the Harrison circuit court. The Judge of the Fleming circuit court shall, if necessary, continue and adjourn the special term of the court, by this act directed to be holden, from day to day, and from time to time, until the attendance of the witnesses on the part of the Commonwealth, as well as of the accused, shall have been procured, and recognized as by this act is required. It is hereby provided, that the election of the said Isaac B. Desha, as given in this act, shall not be allowed nor

made, until after a grand jury shall have been empanelled and sworn, in the Fleming circuit court, at the special term hereby directed to be holden, and shall have passed upon such indictment as may be preferred against the said Desha; and it is also further provided, that at the time the said Desha shall so make his election, (should he elect to be tried in the Harrison circuit court,) he shall also agree of record, that he will in all respects abide by, and submit to the provisions of this act, which agreement shall also be copied amongst the steps and orders; and provided furthermore, that should the Harrison circuit court, for any cause whatever, adjudge the indictment so found in the Fleming circuit court, to be defective, said court shall not, for that cause, discharge the said Desha out of custody; but shall direct a grand jury forthwith to be summoned, empanelled and sworn, and shall charge the said grand jury specially to enquire into the offence for which the said Desha may have been so charged by the indictment in the Fleming circuit court; and if the grand jury, so to be empanelled and sworn, shall find a true bill against the said Desha, upon any indictment preferred against him, the said Harrison circuit court shall, in all respects, proceed to the trial, and, upon conviction, to the judgment, and, if capital, to the execution of the said Isaac B. Desha, in the same manner as though the offence for which he may have been indicted had been committed in said county of Harrison; and in every other respect, the said circuit court of Harrison shall adapt the proceedings, so as to cause a fair and impartial trial of the said Desha to be had, and shall carry its orders and judgment into execution, in the same manner as though the offence had been committed in the county of Harrison. And it is further provided, that the said Isaac B. Desha shall take no advantage, nor be discharged out of custody, on account of any number of continuances granted in the said Harrison circuit court, either on his own application, or that of the Commonwealth, because of the absence of witnesses or otherwise.

[Approved, December 4, 1824.]

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Election not to be made until after a grand jury have found an indictment.

Said Desha to agree to abide by the provisions of this act

CHAP. 30.—An ACT for the benefit of Henry P. Maxcy, late Sheriff of Monroe County.

WHEREAS it is represented to this General Assembly, that the county court of Monroe, in their settlement

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with Henry P. Maxey, late deputy sheriff of said county, in the year 1823, for revenue of 1822, did not allow to said sheriff a credit for delinquencies to a considerable amount, on account of which he had to pay into the treasury more money than was just and equitable; and the said county court now doubting whether they can correct the said error: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said county court of Monroe shall have power to settle and adjust said accounts of delinquency, and when the error is corrected by them, they shall certify to the Auditor of public accounts the amount for which, originally, the said Maxey should have been credited for delinquency, and for which amount the Auditor shall issue his warrant upon the treasury, in favor of said Maxey.

[Approved, December 6, 1824.]

CHAP. 31.—An ACT for the benefit of Archelaus A. Strange, of Adair County.

Preamble.

WHEREAS it is represented to the present General Assembly of the Commonwealth of Kentucky, that agreeable to an act of the Legislature of this State, for the benefit of poor widows, passed the 21st of December 1820, giving to poor widows one hundred acres of the vacant lands of this Commonwealth, who should prove themselves to be within its provisions, Elizabeth Grider, a poor widow of Cumberland county, having complied with said act, obtained from the Register of the land-office, a warrant for one hundred acres of land, No. 12,140, dated 17th March 1823; but before she could obtain said warrant, in order to secure a favorite piece of land in said county, she was compelled to procure a warrant from Archelaus A. Strange, and when the warrant aforesaid, No. 12,140, was obtained from the Register of the land-office, said Elizabeth Grider, in satisfaction of the warrant procured as aforesaid from Strange, assigned the said warrant No. 12,140, to Archelaus A. Strange, neither of them knowing that by the aforesaid act such warrants were not transferable, and that said Archelaus A. Strange proceeded to have said warrant laid upon two pieces of vacant land in Adair county, and the same to be surveyed, yet, owing to the provisions of said act, is unable to procure patents for the same: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That upon the said Strange producing to the Register of the land-office the warrant aforesaid, No. 12,140, and surveys made upon the same, the Register of the land-office be, and he is hereby authorised to issue patents for said tracts of land, to said Strange, upon the payment of the several fees, and according to the laws of this State in such cases.

1824.

Register to issue patents to him for certain lands.

[Approved, December 6, 1824.]

CHAP. 32.—An ACT to provide for the running and marking the County Line between the Counties of Owen and Grant.

WHEREAS it is represented to the present General Assembly of the Commonwealth of Kentucky, that the line between the counties of Owen and Grant has never been correctly ascertained, and that the citizens of those counties are desirous that the same should be run and marked: Therefore,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the surveyors of the counties of Owen and Grant, by themselves or deputies, shall, on the first Monday in April 1825, or so soon thereafter as may be practicable, run and mark the line between the aforesaid counties; in doing of which, they shall be governed by the act of assembly establishing the county of Owen, approved the 6th day of February 1819, or so much thereof as relates to the line called for, dividing the counties of Owen and Pendleton.

Sec. 2. *And be it further enacted,* That the surveyors, for performing the duties assigned them by this act, shall receive the sum of three dollars each, per day, and the chain-carriers and marker the sum of one dollar each, per day, to be paid by their respective counties.

Sec. 3. *And be it further enacted,* That the county courts of the counties of Owen and Grant, shall, at their court of claims in 1825, lay a levy sufficient to defray the expence for running and marking the line as aforesaid.

[Approved, December 6, 1824.]

1824.

CHAP. 33.—An ACT for the benefit of Henry Miller and Peter Anderson.

WHEREAS it is represented to the present General Assembly, that Henry Miller, of Allen county, is living on a small tract of land, containing one hundred acres, which he, the said Miller, purchased from John Ficklin, being part of a two hundred acres head-right claim, and that the said Miller is poor, and unable to pay the State price: Therefore,

Provision for
Henry Miller.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That upon the said Henry Miller's filing with the Register a plat and certificate of survey, for the one hundred acres of land, with a proper assignment from the said Ficklin, the Register shall issue a patent for the same, without the State price being paid therefor.

And whereas it is further represented, that Peter Anderson, of the county of Allen, is poor, aged and infirm, and unable to pay the State price due on four hundred acres of head-right land, whereon he now resides, which said tract of land is registered in his own name, as assignee of William Anderson: Therefore,

For Peter An-
derson.

Sec. 2. *Be it further enacted*, That the Register of the land-office be, and he is hereby directed to issue a patent to the said Anderson, for the four hundred acres of land, without the State price being paid therefor.

[Approved, December 6, 1824.]

CHAP. 34.—An ACT to authorise the County Court of Morgan, to lay an additional levy.

For 1825,

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county court of Morgan county shall have the right, at their February or March term in the year 1825, to lay an additional levy, not exceeding one dollar per tythe, for the purpose of enabling said county court to cause the public buildings of said county to be erected: *Provided*, that a majority of all the justices of the peace of said county, then in commission, be present.

And for suc-
ceeding years

Sec. 2. *Be it further enacted*, That the said court, at their levy term in the year 1825, and in each succeeding year, may, if they see proper, lay a levy in addition to that now allowed by law to be laid, not exceeding one dollar per tythe, until a sufficient fund shall thereby be raised, to defray the necessary expence of erect

ing the public buildings in said county; and then such power to lay an additional levy, shall cease and determine.

1824.

[Approved, December 6, 1824.]

CHAP. 35.—An ACT to legalize the proceedings of the Woodford County Court, and to change the time of holding the March, June and September terms thereof.

WHEREAS it is represented to this General Assembly, Recital.
that the county court of Woodford, being apprised that three additional terms had been allowed to the county of Woodford, by an act passed 7th January 1824, and believing that said court was directed by law to be held on the first Mondays of March, June and September, accordingly court was held on the first Monday of March 1824, contrary to law: For remedy whereof,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* Proceedings la.
That all the acts and orders galized.
of said court are hereby legalized, and made as binding on all parties concerned, as if said court had been held on the second Monday of March 1824.

Sec. 2. *Be it further enacted,* That the March, June County Court
and September county courts of the county of Wood- to be held on
ford, hereafter be held on the first Monday in the sever- the first Mon-
al months, any law to the contrary notwithstanding. day of each
month.

[Approved, December 6, 1824.]

CHAP. 36.—An ACT to authorise the County Court of Pike to lay an additional levy.

SEC. 1. *BE it enacted by the General Assembly of the For 1825,*
Commonwealth of Kentucky, That the county court of Pike county shall have the right, at their February or March term next, 1825, to levy an additional levy, not exceeding one dollar per tythe, for the purpose of enabling said county court to cause the public buildings of said county to be erected: *Provided,* that a majority of all the justices of the peace of said county, then in office, be present.

Sec. 2. *Be it further enacted,* That said court may, at And for suc-
their levy term in the year 1825, and in each succeeding ceeding years.
year, lay a levy, in addition to that now allowed by law to be laid, not exceeding one dollar per tythe, if they may think expedient so to do, until a sufficient fund shall thereby be raised, to defray the necessary expence of erecting the public buildings in said county; and then such power to lay an additional levy, shall cease and determine.

[Approved, December 6, 1824.]

1824.

CHAP. 37.—An ACT for the benefit of James F. Nall.

Recital.

WHEREAS it is represented to the present General Assembly, that James F. Nall, of the county of Nelson, was, some time in the year 1817, appointed guardian for John G. Nall, infant orphan of John Nall, deceased, by the county court of the county of Washington, and that, among other property of said infant, there was a certain man slave, by the name of Sampson, who came to the hands of said guardian; and whereas it is further represented, that some time in the year 1822, said slave ran away, and was gone in and about eighteen months; that after much trouble and expence, he was taken at Fort Wayne, in the State of Indiana, and brought back to Kentucky, and, owing to the general bad character and disposition of said slave, Sampson, the said James F. Nall, guardian as aforesaid, regarding the best interest of his said ward, was advised to, and did sell said slave:

Sec. 1. *Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky*, That the sale of said slave, Sampson, by the said James F. Nall, be, and the same is hereby legalized and made valid, to all intents and purposes, as it would have been, had the said Nall possessed, sold and conveyed the said slave in his individual right, and the said James F. Nall, guardian as aforesaid, be, and is hereby exonerated from all responsibility in consequence of said sale: *Provided, nevertheless*, that he shall account to his ward, his heirs and representatives, for the proceeds of said sale, with interest thereon at the rate of six per centum per annum, until said ward arrives at age.

[Approved, December 6, 1824.]

CHAP. 38.—An ACT to amend an act to change the venue in the case of Isaac B. Desha.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the circuit Judge for the Fleming circuit court shall hold his term on the third Monday in December, 1824, instead of the second Monday in December next; and that the same proceedings shall then be had, and in the same manner, as is directed by said act, to which this is a supplement.

[Approved, December 7, 1824.]

CHAP. 39.—An ACT to provide for the disposition of the estate of William Moore, deceased.

1824.

WHEREAS it is represented to the present General Assembly, that William Moore, a free man of colour, was drowned a few months since, in the county of Lewis, in which he had for many years previously resided; that the said William Moore, was, during his life, industrious and honest, and had, by means of hard labor, acquired claim, by purchase, to some real estate in said county, and also a considerable personal estate; that he had for his wife a negro woman slave, the property of the late Harry Parker, deceased, of said county, by whom he had several children; and that he made a will, by which he devised his property, real and personal, to his said wife and children; but by the laws and statutes of this Commonwealth, they being slaves, cannot hold or enjoy said property: For remedy whereof,

Recital.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be the duty of the circuit court of said county of Lewis, to appoint a committee to take into his or their care and possession, all the property, real and personal, which belonged to the said William Moore, at the time of his death; and it shall be lawful for said committee, in his or their own name, *as committee of the estate of William Moore, deceased,* to sue and be sued, either in law or equity, for all matters in relation to the said estate; and so far as relates to the personal estate, the said committee shall be governed by all the principles, and entitled to all the privileges of the law of the land, in relation to administrators; and so far as regards the real estate, shall be governed by the laws in relation to heirs.

The circuit court of Lewis to appoint a committee to take charge of the estate.

Their powers and privileges.

Sec. 2. *Be it further enacted,* That the said circuit court shall, at least once in each year, cause a settlement to be made with said committee; and it shall be the duty of the commonwealth's attorney in said court, to examine said settlement and the vouchers produced by said committee, and observe that none be received except such as are strictly legal; and said court shall have power, at pleasure, to remove any committee so appointed, and in all instances of vacancy, appoint a new one, so long as any of said estate may remain, and shall, in all instances of appointing a committee, require such committee to execute bond with good security, in a sufficient penalty, conditioned for a faithful discharge of the duties of the office of committee of the estate aforesaid.

The duty of the court and committee in making settlements, &c.

1824.

And in making
distribution
thereof accord-
ing to the will
of decedent.

Sec. 3. *Be it further enacted*, That the said circuit court shall, from time to time, make all such orders in relation to the disposition of said estate, as shall, in the opinion of said court, comport with the best interest of those concerned, and shall be just and equitable, and as far as practicable, to carry into effect the wishes of said deceased, as expressed in his said will; and may direct the committee to sell and convey any or all of said real estate, or to receive conveyances for the same, where, by contract of the said decedent, such conveyance may be due or become due.

Committee to
give bond, &c.

Sec. 4. *Be it further enacted*, That the bond herein required to be taken, shall be made payable to the Commonwealth of Kentucky, and may, from time to time, be sued upon by a subsequent committee, or by any person injured by a breach thereof, who shall, in law, be enabled to sue or be sued.

[Approved, December 7, 1824.]

CHAP. 40.—AN ACT to provide for the selection of a permanent seat of justice for Campbell county.

Recital.

MUCH discontent and great difference of opinion agitating the county of Campbell, relative to the location of the seat of justice, and the State having, from time to time, and at great expence, attempted, but ineffectually, through legislative agency, to remedy the evil and give satisfaction, and it being doubtful whether a majority of the population of said county, prefer the seat of justice to remain at Southgate, or desire it to be removed to Newport; and it being considered, that in local matters, concerning most particularly the citizens of a county, a majority of those interested have an indisputable right to determine: Therefore,

The voters au-
thorized to vote
for a place at
which to fix
their perma-
nent seat of
justice.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That at the next election for Representatives to the General Assembly, in and for the county of Campbell, it shall be the duty of the clerks of the election at Newport and Visalia, to open in their book of polls, two columns, one for Newport, the other for Southgate, and when any voter shall have given his vote for a Representative, he shall give his vote also for one or the other of the above named places, as the town selected by him for the permanent seat of justice in and for the county of Campbell, and when the sheriffs or deputy sheriffs compare the polls for Representative, it shall be their duty to compare the votes given for each

of the said towns, and ascertain which has a majority of votes, and certify a list containing the name of each voter and the place for which he voted, to the clerk of the county court, under their hands and seals; which said list of votes, shall be opened and examined at the first county court in and for said county, next ensuing said election, and the said court having re-examined the polls and purged the same from all illegal votes, if any may have been taken, and having ascertained which of the aforesaid places has obtained a majority of votes, an entry shall be made in the book of the clerk of said court, to this effect: "A law having passed at the last session of the General Assembly, authorizing the qualified voters of Campbell county, by their votes to determine whether the seat of justice in and for said county, should remain at Southgate or be removed to Newport, and the list of votes having been examined, and it appearing that (here insert the name of the town which shall be found to have a majority) has a majority of all the qualified votes given; therefore, it is ordered by said county court, that (insert as above) be, and is hereby declared to be the permanent seat of justice, in and for the county of Campbell."

1824.

The returning officers to return the polls to the county court.

The court to establish the permanent seat of justice at the place having the majority of legal votes.

Sec. 2. *Be it further enacted*, That it shall be the duty of the county court, as soon as practicable after it is thus ascertained which town a majority of the voters prefer and select for the permanent seat of justice of Campbell county, to cause convenient and appropriate buildings to be erected or prepared for the accommodation of the circuit and county courts of said county, and for other county purposes; and it shall be the duty of the clerks of the circuit and county courts, to remove the papers belonging to said offices, so soon as a house may be designated by the county court, for the use of such clerk, at the permanent seat of justice; and the circuit and county courts in and for said county, shall, after suitable buildings are erected or repaired for their accommodation, hold their sessions at said permanent seat of justice.

To erect at such place the necessary public buildings, &c.

Clerks to remove their offices, and the courts to hold their sessions at said place.

Sec. 3. *Be it further enacted*, That the circuit and county courts in and for the county of Campbell, shall hold their sessions at the town of Visalia, until a permanent seat of justice shall have been established, and buildings for the accommodation of said courts, shall have been erected or repaired as aforesaid.

The courts to hold their sessions at Visalia until the seat of justice is permanently established and buildings erected, &c.

In order that the selection of the permanent seat of justice in and for the county of Campbell, as above au-

1824.

thorized, may be conducted with impartiality, and to the entire content of the citizens of said county,

The judges of the election to be selected from those justices living in or near Newport and Southgate.

Sec. 4. *Be it enacted,* That the county court which appoints the judges to preside over the election in said county, shall select and appoint one justice from Newport or its vicinity, and one from the neighborhood of Southgate, to superintend the election at Visalia, and one from the neighborhood of Southgate and another from Newport or its vicinity, to superintend the election at Newport,

[Approved, December 13, 1824.]

CHAP. 41.—An ACT for the benefit of Ellen Blackmore.

Recital.

WHEREAS it is represented to the present General Assembly, That Ellen Blackmore, one of the children of Sandford Payne, deceased, is possessed of title by devise from her said ancestor, to seventeen and a quarter acres in Fayette county, and eighteen and three quarters acres of land in Montgomery county; that the said Ellen Blackmore, being under the age of twenty-one years, desires that a law may pass to authorize her husband, William G. Blackmore, to sell and convey said tracts of land, when they may think most advantageous to their interest:

Certain lands may be sold and conveyed.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Blackmore, and Ellen, his wife, be, and they are hereby authorized and empowered to sell the said tracts of land, to convey the same to the purchaser or purchasers, in the same manner, and under the same rules, as they could do if the said Ellen were of full age and *feme covert*.

[Approved, December 14, 1824.]

CHAP. 42.—An ACT to amend the law concerning the solemnization of marriages.

Proof of the execution of the certificate, and of the identity of the person giving it, necessary before a license can issue.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter it shall be lawful for the clerks of the county courts, to issue licenses for the solemnization of marriages, upon the production of the certificate of the parent or guardian, without seal, and attested by two witnesses, one of whom, at least, shall make oath or affirmation before the clerk, that he or she is acquainted with the parent or guardian, and

that said certificate was executed in his or her presence, by the parent or guardian, any law to the contrary notwithstanding.

1824.

[Approved, December 14, 1824.]

CHAP. 43.—An ACT to allow Lawrence county two Justices of the Peace, in addition to the number now allowed by law.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, the county of Lawrence shall be entitled to two justices of the peace, in addition to the number now allowed by law; the one to reside on the waters of Blain, above where the road from Little Sandy Licks to Floyd court-house, crosses said creek; and the other to reside on Rockcastle creek or its waters; and the county court of Lawrence shall, as soon as a majority of the justices of the county court may convene, nominate to the Governor persons to fill said offices, who shall reside in the parts of the county aforesaid.

[Approved, December 14, 1824.]

CHAP. 44.—An ACT further to regulate the valuation of taxable property in this Commonwealth.

WHEREAS it is represented to the present General Assembly, that the commissioners who are appointed by the respective county courts in this Commonwealth, to list and value the taxable property therein, are not uniform in the standard by which they value said property, some of them estimating it according to its value in Commonwealth's Bank paper, and others according to its value in gold and silver coin: To secure uniformity in the valuation hereafter to be made by the commissioners aforesaid, and to equalize taxation,

Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter, the commissioners that may be appointed by the courts of the respective counties in this Commonwealth, to list and value the taxable property therein, shall value such property at what they may deem it to be worth, in the notes of the Bank of this Commonwealth.

Commissioners
of tax to value
property in
Common-
wealth's Bank
notes.

[Approved, December 14, 1824.]

1824.

CHAP. 45.—An ACT to allow additional Justices of the Peace in certain counties of this Commonwealth.

Pike.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be appointed and commissioned, according to the laws now in force, two justices of the peace in and for the county of Pike, in addition to the number now allowed by law in said county.

Christian.

Sec. 2. *Be it further enacted*, That the county of Christian, shall be entitled to one additional justice of the peace, who shall reside within the present bounds of Captain William Henry's company of militia.

Fleming.

Sec. 3. *Be it further enacted*, That the county of Fleming shall be entitled to one additional justice of the peace, who shall reside within the bounds taken off from Nicholas county.

Green.

Sec. 4. *Be it further enacted*, That the county of Green, shall be entitled to one additional justice of the peace, who shall reside within the bounds of the election precinct.

[Approved, December 14, 1824.]

CHAP. 46.—An ACT for the benefit of the widow and heirs of Jacob Keller.

Preamble.

WHEREAS it is represented that Jacob Keller, late of Jessamine county, departed this life, possessed of a large real estate in the said county of Jessamine, on which there is a mill going to decay, leaving a widow, who has administered on his estate, and several children who are infants, and not leaving assets sufficient for the payment of all his debts; in consequence whereof, it is apprehended that said real estate will be subjected to great loss, unless provision be made by law for the application of a portion of it to the payment of said debts without coercive sale by execution: Wherefore,

The Jessamine circuit court authorized to decree a sale and conveyance of a tract of land belonging to said estate, for the payment of debts, &c.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the circuit court of Jessamine county, sitting in chancery, shall have power, on the joint application of the administratrix of the estate of the said Jacob Keller, deceased, and of his heirs, by their guardian *ad litem*, (to be appointed as hereinafter directed,) to decree the sale of the said mill, together with so much of said real estate, in the said county of Jessamine, as he shall deem necessary, for the payment of the debts due, and which may hereafter become due against said estate, on such terms and in such

1824.

mode as he may consider conducive to the interest of the representatives of said decedent; and direct the proceeds of such sale to be paid over to the said administratrix, on her acknowledging in open court, a bond with approved security, in the penalty of at least double the amount of the estate decreed to be sold, payable to the aforesaid heirs, with a condition that she will faithfully apply to the payment of said debts, the whole amount so paid over to her; which bond shall be filed and made a part of the records of said court, for the security of said heirs.

Sec. 2. It shall be the duty of the judge of said court, on the application of said heirs, to appoint a guardian *ad litem*, for each of them, for the purpose of enabling them to execute the power vested in him by the foregoing section; whose duty it shall be, in the event of any portion of said estate being sold by decree of said court, to make a legal title thereto, to the purchaser or purchasers, by deed of general warranty, in the name and behalf of the aforesaid heirs; which deed or deeds shall vest the absolute legal title to the property there-conveyed, in the conveyee or conveyees, free from any claim by said persons forever.

[Approved, December 14, 1824.]

CHAP. 47.—An ACT for the benefit of Celia Maxwell.

WHEREAS it is represented to the General Assembly of the Commonwealth of Kentucky, that Celia Maxwell, of the county of Madison, with four children, is left destitute of the means of support, and entirely dependent upon her friends, owing to the loss of her husband in the late Dudley's defeat; and to relieve her infants from their distressed situation: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the Land-Office be, and he is hereby authorised and directed, on the application of the said Celia Maxwell, to issue to her a land warrant for two hundred acres of land, without the state price being paid for the same; which warrant may be surveyed upon any vacant and unappropriated land in the county of Madison, which is by law subject to location by land-office warrants; and on the return of the plat and certificate of survey in the Register's office, a patent shall issue thereon without a fee, as in other cases.

Preamble.
Register to issue warrant.

Where to be located.

Patent to be issued without fee.

[Approved, December 15, 1824.]

1824.

CHAP. 48.—An ACT to establish the county of M'Cracken.

County estab-
lished.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county of M'Cracken, bounded and described in the eighth section of an act forming the counties of Hickman, Graves, Calloway and M'Cracken, on the south-west of Tennessee river, approved December nineteenth, one thousand eight hundred and twenty-one, be, from and after the 15th day of January next, one distinct county, called and known by the name aforesaid.

Officers to be
commissioned.

SEC. 2. There shall be commissioned for said county, nine justices of the peace, a sheriff and coroner; and the said justices of the peace shall meet at the house of Isaac Lovelace, with power (a majority of said justices concurring therein,) to meet at any other more eligible place, until the establishment of the permanent seat of justice for said county, on the third Monday in January next; and after taking the oaths of office, which may be administered by any justice of the peace for Graves county, shall proceed to appoint a clerk, to whose permanent appointment a majority of all the justices in commission, shall be necessary; and the county courts of said county thereafter, shall commence on the third Monday in every month, except those months in which the circuit courts are directed to be held. The said county shall form a part of the seventh judicial district, and the assistant judges to be appointed by this act, shall, by themselves or in conjunction with the circuit judge of that district, hold circuit courts for said county, on the first Mondays in February, May and November in each year, and continue six juridical days at each term, if the business shall require it.

Court, when
and where to
meet, to ap-
point a clerk.Time of hold-
ing the county
courts.Attached to
7th judicial
district.Time of hold-
ing circuit
courts.Commissioners
appointed to
fix seat of jus-
tice.Where to be lo-
cated.

SEC. 3. Jonathar Shelton, W. Titsworth, George Lovelace, James Ashley and Charles Plummer, or any three of them, be, and they are hereby appointed commissioners for the purpose of fixing upon some eligible place for the permanent seat of justice for said county, who shall meet at the house of said Isaac Lovelace, in said county, on the third Monday in January next, or as soon thereafter as shall be convenient, and shall thence proceed to select any quantity of land not less than one hundred or more than one hundred and sixty acres, (provided that the same be public land,) in the aforesaid county, whereon to fix the permanent seat of justice for said county when organized, provided the same be within township 6 north, range 2 west of the principal meridian; nevertheless, the said commissioners may, if in

their opinion, it will conduce to the interest of the good people of said county, fix upon any spot of ground within said township for said seat of justice, though the same be holden by one or more private individuals: *And provided further*, that said proprietors shall or may make such gift or donation for the erection of public buildings, &c. as shall to them, the said commissioners, seem reasonable.

1824.

Proviso.

Sec. 4. So soon as said commissioners shall have fixed upon a suitable site as aforesaid, for said seat of justice for said county, they shall proceed to lay off a town, by running and marking out (and placing corners of stone, stakes or trees,) into a convenient number of lots, streets, alleys and avenues; and it shall be their duty to make out a plat of said town, in a neat form, representing the true position of each lot, street, alley and avenue, together with the number of lots and the names of the streets, alleys and avenues, and shall also make out two copies of said plat, one to be recorded in the clerk's office of the county court of said county, and the other returned and filed in the Register's office.

Commissioners to lay off a town at the place so selected, and to record the plat thereof.

Sec. 5. The said commissioners shall be allowed two dollars per day, for the time they may reasonably be engaged in attending to the duties required by this act, to be paid out of the county levy.

Allowed \$2 per day.

Sec. 6. The county court of said county shall appoint commissioners to take in all lists of taxable property of said county, agreeably to the laws now in force; and shall possess all the powers, jurisdiction, rights and privileges, which the county courts of this Commonwealth possess.

County court to appoint commissioners of tax.

Sec. 7. The circuit and county courts of Hickman county, shall have jurisdiction over all matters depending before them at the commencement of this act; and it shall be lawful for all sheriffs and constables in the said county of Hickman, to collect fines and other moneys which may be in their hands for collection, except the levy and revenue tax for one thousand eight hundred and twenty-four, and shall account for the same as if this act had not passed.

Courts of Hickman county to retain jurisdiction.

Sec. 8. It shall be the duty of the sheriff of M'Cracken county, to collect the taxes and county levy arising from the property and titheables listed for taxation, in the year one thousand eight hundred and twenty-four, within the bounds of said county, and the whole amount of the levies collected within the same, shall be paid to the county court of Hickman, to be appropriated to

Levy and tax of 1824, to be collected by the sheriff of M'Cracken.

1824.

Duty of clerk
of Hickman.

the use and benefit of said county; and it shall be the duty of the clerk of Hickman county, to deliver to the sheriff of M'Cracken county, a copy of the commissioners' books, of the property and levies listed within the bounds of said county, and transmit a copy thereof to the Auditor of public accounts, and the sheriff of Hickman county shall have a credit with the Auditor for the same.

Assistant Judges to be appointed.

Sec. 9. There shall be appointed two assistant judges for M'Cracken county, who shall have and possess the same powers, and receive the same compensation, as is allowed to the assistant judges of Calloway and Hickman counties, by the fifth section of an act to establish Calloway county, approved November thirtieth, one thousand eight hundred and twenty-two.

Jail of Livingston county.

Sec. 10. The sixth section of the above recited act, respecting the use of the jails of Livingston and Caldwell counties, for criminals in Hickman and Calloway, shall continue and remain in force for M'Cracken county.

Elections to be held at the seat of justice, &c.

Sec. 11. The annual general election for said county, shall be holden at the seat of justice in said county, to be fixed upon as aforesaid; and all laws establishing election precincts in said county, are hereby repealed.

[Approved, December 17, 1824.]

CHAP. 49.—An ACT for the benefit of the late Sheriffs of Madison county.

Preamble.

WHEREAS the deputy sheriffs of Madison county, failed to return their delinquent list of fines to the courts of assessment for the seventh and thirty-fifth regiments, for the year one thousand eight hundred and twenty-one, owing to the said courts of assessment all being held on the same day, and to the sickness of the deputy sheriffs in whose hands said fines were listed:

Allowed further time to return delinquent fines.

Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky, That said deputy sheriffs be allowed until the next court of assessment, to return said list of delinquent fines; and on their making such return as is usual in such cases, the courts of assessment for said regiments shall allow them a credit therefor.

[Approved, December 23, 1824.]

CHAP. 50.—An ACT for the benefit of the State Hospital at Louisville.

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the net profits of the branch of the Bank of the Commonwealth of Kentucky at Louisville, commencing from and after the tenth day of October last, up to and including the tenth day of October, one thousand eight hundred and twenty-five, be, and the same are hereby appropriated to paying the debts of, and furnishing, finishing and putting into operation, the Hospital at Louisville.

The profits of the branch bank of Commonwealth at Louisville, for one year, appropriated to said Hospital.

Sec. 2. *Be it further enacted*, That it shall be the duty of the Cashier of said branch Bank at Louisville, to pay over to the President of the board of managers of the said Hospital, upon his check therefor, semi-annually, the profits of said Bank, commencing as aforesaid, on the tenth day of October, one thousand eight hundred and twenty four, and ending the tenth day of October, one thousand eight hundred and twenty-five; and to enable the President of said board of managers to check as aforesaid, the Cashier of said branch Bank shall, on his application, furnish the President with the amount of such profits as aforesaid.

Cashier to pay the same to the board of managers.

[Approved, December 23, 1824.]

CHAP. 51.—An ACT for the benefit of the Sheriff of Hart County.

WHEREAS the sheriff of Hart county, owing to his continued illness since the month of August last, has been unable to collect the revenue of said county, and has petitioned for further time: Wherefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said sheriff of said county be allowed the further time of four months, to make out and return his delinquent list, and to pay the revenue into the public treasury.

[Approved, December 23, 1824.]

CHAP. 52.—An ACT for the benefit of the Sheriffs of Union and Allen Counties.

WHEREAS it is represented to the present General Assembly, that from unavoidable circumstances, the sheriff of Union county was prevented from obtaining a credit for his delinquent list for the years 1821 and 1822; and that, from the like circumstances, the sheriff of Allen county was prevented from obtaining a

Preamble.

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credit for his delinquent list, for the year 1821.
Therefore,

Auditor to receive and allow delinquent lists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That upon the said delinquent lists being presented to the Auditor of public accounts, it shall be his duty to receive the said lists, and upon its appearing in his office that said sheriffs have not been credited with said lists, and that they have paid the full amount of said lists into the treasury, then and in that case it shall be his duty to issue his warrant on the Treasurer, for the amount of said lists, in favor of the said sheriffs.

[Approved, December 23, 1824.]

CHAP. 53.—An ACT to repeal the law organizing the Court of Appeals, and to re-organize a Court of Appeals.

All laws organizing the Court of Appeals, repealed.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the act entitled "an act establishing the Court of Appeals," approved June 28th, 1792; also, another act entitled "an act establishing the Court of Appeals," approved December 19th, 1796, and every act or part of any act or acts, for amending said two acts, or either of them, or for regulating the Court of Appeals, or concerning the Court of Appeals, or for giving or allowing any salary or compensation to the Chief Justice of Kentucky, or any Judge or Justice of the Court of Appeals, or for increasing any salary or compensation to the Chief Justice, or any Judge or Justice of the Court of Appeals, shall be, and the same are hereby repealed.

Court re-organized.

SEC. 2. A Supreme Court shall be, and is hereby erected and established, which shall be styled the Court of Appeals.

Judges, how appointed.

SEC. 3. The Governor of the Commonwealth of Kentucky shall nominate, and by and with the advice and consent of the Senate, appoint a Chief Justice of the State of Kentucky, a second Associate Justice of the Court of Appeals, a third Associate Justice of the Court of Appeals, and a fourth Associate Justice of the Court of Appeals; who shall, by virtue of their office and commissions, be the Justices and Judges of the said Supreme Court, and the said Court of Appeals shall be constituted, and held by, and consist of the said Chief Justice and Associate Justices.

Duties of the Chief Justice.

SEC. 4. The Chief Justice of Kentucky, so to be appointed, shall, by virtue of his said office, be the Presi-

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dent of the Court of Appeals. Over and above his duties in common with the Associate Justices, it shall be his duty and especial care, to superintend the proceedings of the Court; to see that the business is conducted with due order and dispatch; that the cases be decided upon due consultation of the Justices; that no opinion be delivered as the decision of the Court, which shall have been prepared in writing by any one of the Justices, previous to a consultation of all the Justices who sat on the trial of the case; but each Justice may deliver his separate opinion, whenever he shall think fit. In the absence of the Chief Justice, or where he shall refuse to sit in any case, the other Justices shall take precedence according to the numerical priority in the style of their offices and appointments, before expressed, and in that order shall perform the duties of President of the Court for the occasion.

Sec. 5. Every person commissioned as a Justice of the said Supreme Court, before he enters upon the duties of his office, shall take and subscribe the oath or affirmation following: "I do solemnly swear, (or affirm, as the case may be,) that I will be faithful and true to the Commonwealth of Kentucky, so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my abilities, the office of Judge of the Court of Appeals, according to law; I will administer justice, without sale, denial or delay; I will do equal right to the poor and to the rich, without prejudice or partiality; I will not bend to men in power, nor turn a deaf ear to the humble or the helpless." Which oath or affirmation may be administered by any Justice of the Peace, or by any Judge or Justice of any court within this Commonwealth, and the certificate thereof shall be in due time recorded in the Court of Appeals.

Oath of Judges.

Sec. 6. The Court of Appeals, or a majority of the Justices thereof in vacation, shall appoint the Clerk of the said Court, who, before he enters upon the duties of his said office, shall take the oath or affirmation prescribed by the constitution to all officers, and shall give bond to the Governor of the Commonwealth of Kentucky, in the penalty of twenty thousand dollars, with security approved by a majority of the Justices of said Court, conditioned for the faithful discharge of the duties, and seasonably to record the decrees, judgments, orders and decisions of said Court; which bond, when approved by a majority of the Justices of said Court, shall be recorded in the Court of Appeals. It

Clerk, how appointed, & his duty.

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shall not become void upon the first recovery, but may be put in suit from time to time, at the costs and charges of any person aggrieved by breach of the condition, until the whole penalty shall be recovered.

Judge to inspect Clerk's office, &c.

Sec. 7. The Court of Appeals shall, once in every year, appoint one of the Judges thereof, to inspect the office of said Clerk, and to make report of the condition of the office, records, books and papers; which report shall be returned to the next term of the Court, and be entered of record.

Further duties of the Clerk.

Sec. 8. The Clerk shall carefully preserve the transcripts of records certified to the Court, and all bonds for prosecution, and all papers relating to suits depending in said Court; he shall docket the cases in the order that the records are lodged, that they may be heard in the same order; but the Court may, for good cause, direct any case to be heard out of its turn. The proceedings of each day shall be drawn at length by the Clerk, by the next sitting of the Court, and such corrections as are necessary being made, they shall be signed by the presiding Justice. When any cause shall be finally determined, the Clerk shall make a complete record thereof. All writs, process and summonses, issuing from the Court of Appeals, shall bear teste in the name of the Clerk, and be signed by him.

Powers of the Court.

Sec. 9. The Court of Appeals shall have power to administer all necessary oaths and affirmations; to punish, by fine and imprisonment, all contempts of authority, in any cause or examination before said Court; to establish rules for the orderly conduct of the business of said Court, provided they are not inconsistent with the constitution or laws of this Commonwealth; to direct the forms and modes of writs, process, summons and proceedings, to be issued, observed and preserved in said Court; to issue writs of *habeas corpus*, *certiorari*, *scire facias*, *mandamus*, *subpoena duces tecum*, and all other writs which may be necessary and proper for the exercise of the jurisdiction of the said Court, so as the said writs be not repugnant to the principles of the constitution and usages of law.

Executions, how issued.

Sec. 10. Executions shall be issued from the Court of Appeals, according to law, and the return days shall be appointed by the Court.

Commissions to take depositions, how to issue.

Sec. 11. For good cause, the Court of Appeals, or any Justice thereof in vacation, may grant commissions for the examination of witnesses; and when any witness is about to depart from the State, or is very an-

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cient or infirm, or sick, or otherwise unable to attend the Court, or when the claim or defence, or any material part thereof, rests upon the testimony of a single witness, upon affidavit thereof, the Clerk may issue a commission for taking the deposition of such witness *de bene esse*, to be read on the trial, if such witness be then unable to attend; but the party obtaining such commission, shall give to the adverse party reasonable notice of the time and place of taking the deposition, so that he may attend and put interrogatories, if he thinks fit.

Sec., 12. In the said Court of Appeals, the parties may plead and manage their own cases personally, or by such attorney or attorneys in fact as they may appoint by letters of attorney for that purpose, or by such attorney or attorneys at law, as, by the rules of said court and the laws of the land, shall be permitted to manage and conduct causes therein.

Litigants may plead their own causes, or appoint attorneys.

Sec. 13. The stated terms of said Court shall commence and be held on the first Monday in April, and on the first Monday in October, of every year. If, on the first day of any term, a quorum of the Justices do not attend to hold the Court, it shall stand adjourned from day to day, for seven juridical days, unless a quorum of the Justices shall sooner attend; and on the failure of a quorum of the Justices to attend by that time, any one or more of the Justices who are attending, may adjourn the Court to such further day, as in his or their discretion shall seem right. No abatement or discontinuance of any suit, process, matter or case, returnable to, or depending in said Court, shall take place by reason of the failure of a quorum of the Justices of the Court to attend on the first, or any other day of the term or session. If, from any cause, after the Court shall commence its session, the Court shall not be held on any day of a term, the Court shall not thereby be adjourned, but may sit again and proceed to business as soon as the cause of such failure is removed. The terms of said Court of Appeals are unlimited; and it shall be the duty of the Justices to hold the Court until all the cases on the docket for trial, shall be called, heard and decided or continued, unless, from the difficulty or complication of any case or cases, the Court shall think it proper and discreet to hold the same under advisement, until another term; but the Court may, in any term, make such recess or recesses, as a majority of the Justices in session shall appoint and declare by their or-

Court, when to be held.

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det on record, by the adjournment of the Court to any future day, specified in such order.

Three Justices
to constitute a
Court.

Sec. 14. The presence of three of the Justices shall be necessary to constitute the said Supreme Court. Where but three of the Justices attend, and the said three do not concur in reversing the decision of the inferior court, that case shall stand over for a full Court, or until the concurrence of three Justices is had, unless one of the Justices is interested, or for other cause refuses to sit in the case. No judgment, decree, sentence or decision of an inferior court, shall be reversed, unless by the concurrence of three of the Justices of said Supreme Court, unless where one of the Justices shall refuse to sit. No act of the Legislature, which shall have received the assent of each House of the General Assembly, and been published by them as obligatory, shall be abrogated, declared null, or made inoperative, by the judgment, decree, sentence or decision of the Court of Appeals, unless by the unanimous opinion and concurrence of all the Justices in full Court. Where two or more Justices shall be interested, or shall refuse to sit in any case, the parties may submit such case to the decision of the other two, or to one of the Justices; and such assent, duly made known and entered of record in the said Court, shall authorise the Justices or Justice so assented, to constitute a special court for the trial of such case.

Its jurisdiction.

Sec. 15. The said Supreme Court shall have original jurisdiction in those cases only, where, by the constitution of the State of Kentucky, such original jurisdiction is conceded and confined to said Supreme Court; in all other cases, it shall have appellate jurisdiction only. Its powers and jurisdiction shall be co-extensive with the State, subject to such regulations and restrictions as may be prescribed by law, from time to time.

In what it shall
not have juris-
diction.

Sec. 16. The said Supreme Court shall not have or take jurisdiction, to delay, supersede, hear, determine, affirm or reverse, any order, sentence, judgment or decision, or proceeding of any inferior court, of any Judge, or of any Justice or Justices of the Peace, touching or concerning any of the subjects following: For treason, murder or felony; for any crime punishable by confinement in the Penitentiary; for any corporal punishment; for any contempt offered to either house of the General Assembly, or to any inferior Court, or Judge, or Justice; nor in any case prosecuted under the act respecting riots, routs and unlawful assemblies; nor under the

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act for punishing the disturbance of religious societies; nor to any judgment of a County Court, affirming or reversing the judgment of a Justice of the Peace; nor to any judgment of any Court, in granting or refusing a continuance of any case, or in granting or refusing a new trial, because the verdict was contrary to the evidence; nor to any case where the value in controversy is of less value than twenty dollars, exclusive of costs. In all other cases, the said Court of Appeals shall have jurisdiction to revise, correct, reverse or affirm the sentences, decisions, judgments or decrees of all the courts of this Commonwealth, inferior to the said Supreme Court.

Sec. 17. Any distinction heretofore made between appeals, as applicable to decrees in chancery and writs of error, as applicable to cases in common law, is hereby revoked. An appeal is the process for removal of a cause from an inferior, to a superior court, by a prayer for that purpose, entered and granted in the inferior court, at the time, or during the same term, of the decision complained of; a writ of error is the process for removal of a cause, issued from the superior or supreme court. Every other distinction between appeal and writ of error, is hereby abolished; and cases in equity, in chancery, and in common law, may be removed into the Court of Appeals, by appeal or by writ of error.

Distinction between appeals and writs of error.

Sec. 18. No appeal nor writ of error shall be a supersedeas or stay of execution, until the person complaining and suing such appeal or writ of error, shall, by a responsible person or persons on his behalf, give sufficient surety, by bond in a reasonable penalty, for the due prosecution of the appeal or writ of error. In case of the appeal, the court granting such appeal shall approve the security, fix the penalty, and prescribe the time within which the bond and security shall be given and executed before the Clerk of that court or his deputy. If the party shall fail so to give bond and security, the said appeal shall not be a supersedeas or stay of execution; but, nevertheless, the appeal so prayed and granted, shall be a sufficient citation to the adverse party, to appear and answer the appeal in the appellate court.

Security in appeals and writs of error.

Sec. 19. No writ of error shall be a supersedeas or stay of execution, unless the Court of Appeals, or some Justice thereof in vacation or recess of said Court, shall allow and grant the said supersedeas, after inspecting a transcript of the record. But before the writ of error shall operate to supersede the judgment or decree,

Supersedeas, how granted.

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or stay execution, the party complaining and suing such writ of error, shall give security, in a reasonable penalty, approved by the Clerk of the Court of Appeals, and cause such bond and security to be executed before the Clerk of the Court of Appeals or his deputy, for the due prosecution of such writ of error, or in the office of the court where the judgment, decree or decision complained of, was rendered, according to the act of the General Assembly, approved February 1st, 1812, entitled "an act concerning the bond to be executed, to make a writ of error, issuing from the Court of Appeals, a supersedeas;" which said act is hereby re-enacted, and declared to be in force, as fully as if herein inserted at large. In such cases, the Clerk of the Court of Appeals shall endorse upon such writs of error, "This writ is a supersedeas, and to be obeyed as such."

Record, when
to be filed.

Sec. 20. The person appealing or suing a writ, shall cause to be delivered to the Clerk of the Court of Appeals, a transcript of the record, on or before the third day of the term of the Court of Appeals next succeeding such appeal or writ of error, if there be thirty days intervening between the appeal granted and writ of error sued out, and the said third day of the succeeding term of the Court of Appeals; but if not such thirty days intervening, then such transcript shall be delivered on or before the third day of the second term after such appeal or writ of error; and on failure so to deliver such transcript, the defendant in such appeal or writ of error, may have a rule to show cause why such appeal or writ of error shall not be dismissed, returnable at such day as the court shall appoint. At the expiration of such rule, the court may give further day, or may discharge the supersedeas, if any had been caused by such appeal or writ of error, in their discretion: *Provided, however*, that if the transcript be not filed on or before the third day of the second term, where there were such thirty intervening days, as above mentioned, or if not, then on or before the third day of the third term next succeeding such appeal or writ of error, then the appeal or writ of error shall be nonsuit, and his appeal or writ of error dismissed, without any further allowance or discretion of the court, and the party be put to bring his new process, if so he shall choose, within the limitation hereinafter prescribed. Upon such new writ of error, the court, upon inspecting the record, may allow or refuse a supersedeas, in their discretion,

or the same may be awarded in the vacation or recess, by any Justice of the said Court, as herein before prescribed.

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Sec. 21. Appeals and writs of error shall, upon demand of the party applying therefor, be granted as matter of right, in all cases cognizable in the said Supreme Court; and none shall be refused, unless it is apparent on the face of the record, that the case falls within the express prohibitions of jurisdiction before expressed. Where it does not appear on the face of the record, whether the case is or is not, of less value than twenty dollars exclusive of costs, either party may, by affidavits, show that fact to the Court of Appeals; such affidavits to be taken on due notice to the adverse party; and if it shall appear that the case is not of the value of twenty dollars, exclusive of costs, the court may award full costs against the appellant or plaintiff in error.

Appeals and writs of error to be granted on demand.

Sec. 22. Writs of error shall be sued out within three years next after the day of the rendition of the judgment, decree, sentence or decision complained of, and not after: *Provided always*, that if any person or any one of the persons entitled to such writ of error, were or shall be at the time of the judgment, decree, sentence or decision complained of, an infant, *feme covert*, *non compos mentis*, imprisoned, or a citizen of this State and absent out of the State upon public business, then such person so disabled, and all persons with him or her necessary to join in such writ of error, his, her or their heirs, executors, or administrators, or devisees, as the case may be, shall and may sue such writ of error, at any time within two years after such disability, removal or death of the person so disabled, notwithstanding the said three years may have elapsed.

Limitation to writs of error.

Sec. 23. Writs of error and appeals shall and may be amended by adding or striking out parties, plaintiffs or defendants, so as to conform the same to the record, where there is sufficient to identify and make certain the case complained of; nor shall any appeal or writ of error abate, or be quashed, or dismissed, for any want of form or want of proper parties, where the party shall move to amend, and cause the amendment to be made in reasonable time after such defect made known. Neither shall it be necessary to sue two or more writs of error or appeals upon the same record; but all the decisions in the same record, to the prejudice of the party complaining, may be assigned for error, as well in

Appeals & writs of error may be amended.

Two not necessary.

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Rules in ap-
peals and writs
of error.

law as in fact, and all not barred by the limitation aforesaid, shall be heard by the Court of Appeals.

Sec. 24. The following rules shall be observed in 'appeals and writs of error: In cases of mills, wills and roads, the appellant or plaintiff may assign errors upon matters of fact, as well as upon matters of law; and such cases shall be heard as fully upon testimony, as if the cases had originated in the Court of Appeals.

In cases at common law, (except as above,) the appellant or plaintiff shall assign errors in law only, arising upon the face of the record.

If the judgment, decree or sentence, or decision, be affirmed in whole, the appellant or defendant shall have judgment for his costs.

If it be reversed in the whole, the appellant or plaintiff shall have his costs.

Where there is a reversal in part, and affirmance in part, the costs of the original suit, and of the appeal or writ of error, shall be apportioned between the parties, according to the discretion of the Court.

In cases of reversal in part, the Court of Appeals shall give such judgment, or decree, or decision, as the Court below ought to have given, unless it be necessary to remit the cause to the inferior court for further proceedings.

On deciding the case, the Court of Appeals may issue execution according to law, or may remit the case to the inferior Court, that execution may there be done, or that other proceedings may there be had.

In appeals or writs of error, which have operated as stay of execution or *supersedeas*, and which shall appear to have been sued merely for delay, the Court, upon nonsuit, dismissal or affirmance, shall award damages in favor of the party so delayed, against the party so causing the delay, after the rate of *ten per centum per annum*, computing the same from the time of the *supersedeas*, up to the time of affirmance, dismissal or nonsuit.

In cases where the Court shall be of opinion, that there was reasonable cause for such appeal or writ of error, the damages shall be after the rate of *six per centum per annum* only, on the money due by such judgment or decree.

In both of the above cases, the interest is to be taken and computed as part of the damages, where the debt, or judgment or decree, is bearing interest.

If the appellant or plaintiff be nonsuit, or dismiss his suit, or the Court shall order the dismissal, the appel-

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lant or defendant shall have his or her costs, as upon affirmation.

Every person obtaining a writ of error with *supersedeas*, shall assign in writing the particular errors relied on, which shall be filed with the Clerk of the Court of Appeals before the *supersedeas* issues; and on the trial, no other errors shall be relied on, unless by special leave of the Court.

No writ of error, with or without *supersedeas*, shall be granted to any execution or replevin bond, or forthcoming or delivery bond, or for any error in such bond or bonds, or for any error of the officer in issuing such execution, or in taking such bond, or upon execution on any such bond or bonds, until such error or errors shall have been adjudicated, or brought for adjudication or correction, before the inferior Court having jurisdiction thereof.

No appeal or writ of error shall be allowed in the Court of Appeals, (except by consent of parties,) unless the judgment, decree, decision, order or sentence be final, or so far final as to authorize an execution, sale or change of property, or possession, or such like; a decree of foreclosure or sale of property pledged, a judgment for sale of attached effects, or whereby the possession or use of property is to be changed, is so far final, as that an appeal or writ of error will lie thereon.

No appeal or writ of error shall be allowed by the Court of Appeals, to the dissolution or discharge of an injunction, whilst the case is retained in Court for trial, unless by consent of the parties; but instead thereof, one or more of the Justices of the Court of Appeals, on inspecting a transcript of the record, may, by his or their order, reinstate the injunction, provided he or they shall be of opinion that the injunction was improvidently dissolved or discharged.

In like manner, if an injunction has been improperly refused, one or more of the Justices of the Court of Appeals, after inspecting the record of such motion, made in an inferior Court and refused, may order the same to be granted.

Appeals and writs of error, (except in cases of wills,) shall stand for trial at the term next succeeding that to which the record is returned; but the Court may, for good cause, grant a continuance, under such equitable restrictions as they shall deem right.

Cases of wills, shall stand for trial at the first term to which the record is brought up.

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Appeals and writs of error may be had and sued to decisions on *caveats*, and on writs of *mandamus* and prohibition, and to the orders and decisions of the Courts inferior to the said Supreme Court, in refusing them.

Appellate jurisdiction of the Court.

Sec. 25. Subject to the limitations, restrictions and regulations before mentioned, the appellate jurisdiction of the said Supreme Court, shall extend to, and be competent, either upon appeal or writ of error, to revise, correct, superintend, reverse or affirm, all orders, sentences, decrees, judgments or decisions, of all and every of the Courts of record of this Commonwealth, concerning or touching lands, tenements, hereditaments, franchises, freeholds, privileges and immunities, debt and damages, in cases heretofore decided, or which shall hereafter be decided.

Writings may be recorded in Clerk's office.

Sec. 26. Deeds, powers of attorney and other writings, may be admitted to record in the Clerk's Office of the Court of Appeals, the Clerk taking the proof or acknowledgment in the same manner as if it were done in open Court.

Proceedings in old Court to be continued in new.

Sec. 27. All appeals, writs of error, suits, pleas, orders, process and proceedings had, instituted, begun or pending in the Court of Appeals at the passage of this act, shall remain valid and continue, and be carried into effect, decided and executed in the Supreme Court by this act established, in as ample form and manner, as if the same were had, begun, pending or originated (as the case may be) in the Supreme Court by this act erected and established. All judgments, decrees, orders and executions remaining in said former Court of Appeals, shall be transferred to the Supreme Court by this act erected and established; therein to be re-heard, altered, set aside, or confirmed and carried into execution, or remitted, as fully and as effectually as they could have been by the rules and regulations and powers of the said former Court of Appeals.

Certain laws revived.

Sec. 28. So far as by the decision of the said Supreme Court by this act erected and established, any of the acts or parts of acts, by this act repealed, shall be necessary and proper, for effectuating the enactments and provisions of the last preceding section, the same shall be, and are hereby declared to be operative as the law and rules of proceeding in those cases, and not otherwise.

Vacancies, how filled.

Sec. 29. As often as any vacancy shall happen in the said offices of "Chief Justice of Kentucky," "second Associate Justice," "third Associate Justice," or "fourth

Associate Justice" of the Court of Appeals, the Governor of the Commonwealth of Kentucky shall and may fill such vacancy in the manner authorized and prescribed by the constitution of the State of Kentucky.

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Sec. 30. The said Judges of the Court of Appeals shall, by virtue of their respective offices, be conservators of the peace throughout the State.

Sec. 31. All the records, papers, books, transcripts of records, process, bonds and public property of every description, of and belonging to the office of the Clerk of the Court of Appeals, which by this act is repealed, shall be transferred and delivered over, and belong to the Clerk's Office of the Supreme Court by this act established; and the said Chief Justice and Associate Justices of the said Court of Appeals, shall take care that all the said records, books, transcripts, papers, process, bonds, and public property of every description, shall be so transferred and delivered; and to that end, the said Chief Justice and Associate Justices, or a majority of them, are hereby authorized to make all orders of Court, necessary and proper to carry this section into full effect, and to enforce the same by attachment for disobedience.

Records, papers, &c. to be transferred from old Clerk to new.

Sec. 32. The act entitled "an act to authorize the appointment of Sergeant to the Court of Appeals, and allowing appeals in certain cases of *caveat*," approved February 11th, 1809; also an act directing the duties of the Sergeant of the Court of Appeals, approved February 8th, 1812; also another act, entitled "an act concerning the Sergeant of the Court of Appeals," approved the 14th of January, 1819; also an act to amend an act entitled "an act appointing a Sergeant of the Court of Appeals," approved February 19th, 1819, shall be, and the same are hereby repealed; the provisions and enactments of the said three first described acts of February 11th, 1809, of February 8th, 1812, and of 14th January, 1819, are hereby re-enacted, as if the said recited provisions and sections of the said three first acts, were herein repeated at large.

Certain acts repealed.

Sec. 33. The said Court of Appeals may, at pleasure, appoint a person to act as Tipstaff and Crier for said Court, who shall attend the Court of Appeals and General Court, and perform such duties as shall be required of him by those Courts respectively in term time, and for his services he shall receive the same fees as now allowed by the laws of the United States, to the Crier of the Court of the United States for the Kentucky

Court may appoint Tipstaff and Crier.

His compensation.

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District, to be paid upon certificate of allowance from the said respective Courts, to the Auditor of public accounts.

Duty of Clerks
of inferior
Courts.

Sec. 34. The Clerks of the inferior Courts shall make out all transcripts of records upon appeals or writs of error, in a plain and legible manner, with the day of the month and the year, of each order, and plain marginal notes; the transcripts shall be duly certified to be full, true and complete transcripts, under the seal of the Court; and if any record so certified, shall be carelessly, unskilfully or imperfectly made, the Court of Appeals, upon inspection thereof, may issue a summons against the Clerk so in default, and at his costs, to show cause why his fees for such record, should not be docked and withheld, and if no sufficient cause be shown, the said Court shall accordingly make the rule absolute, for withholding the fees of the said record from the said Clerk.

Penalty.

Repealing
clause.

Sec. 35. All and every act and part of acts or act, coming within the purview of this act, shall be, and the same are hereby repealed, except so far as herein before they are permitted to operate.

Sec. 36. This act shall take effect and be in force from and after the passage thereof.

[Approved, December 24, 1824.]

CHAP. 54.—An ACT for the benefit of Benjamin Craig and others.

Preamble.

WHEREAS it is represented to the present General Assembly, that there is a prosecution now depending in the circuit court of Boone county, against Ben. Craig, for stabbing, and because the person with whom the said Craig had the conflict, possesses numerous and influential relations in said county of Boone, all of whom, as well as many others, the said Craig believes entertain high prejudices against him, insomuch that a fair trial cannot be had in said county: Therefore,

Change of
venue to Scott
county.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a change of venue be granted and allowed the said Craig, to the county of Scott; and it shall and may be lawful for the said Craig to appear at the court-house in said county, on the first day of the next term of the circuit court in and for the said county of Scott, and then and there deliver himself up to the sheriff of said county, to answer to the said prosecution; and it shall be the duty of the said sheriff to present the said Craig to the said

circuit court, whose duty it shall be to take cognizance of the said prosecution, in the same manner, and under the same rules and regulations of law, as though the said offence, with which the said Craig is charged, had originated in the said county of Scott, and in all respects the said circuit court shall have and possess the same power and jurisdiction to try the said Benjamin Craig, upon said prosecution or indictment, pronounce judgment and cause the same to be executed, as they would have had and possessed, if said offence had been committed in the said county of Scott, as herein before expressed, and the prosecution shall proceed in the same manner, and the same challenge may be had, as could have been had in the said county of Boone: *Provided, however*, that the said Craig shall not be discharged, either at the first, second or third terms of the Scott circuit court, after said change of venue, if, through any casualty, a trial shall not be sooner had.

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 Scott circuit
 court to have
 jurisdiction.

Sec. 2. *Be it further enacted*, That it shall be the duty of the clerk of the circuit court of the county of Boone, to make out full and complete copies of all the orders made in his court, in said prosecution, and shall forward them, together with all writs, bonds, recognizances, indictment, or other papers filed therein, by the sheriff of his county, to the clerk of the circuit court of the said county of Scott, taking his receipt for the same; which duty shall be performed by the said sheriff with all possible dispatch, and he shall be allowed six cents per mile, in going to and returning from Scott county, to be paid out of the public treasury.

Clerk of Boone
 to send papers,
 &c.

Sec. 3. *Be it further enacted*, If either the clerk or the sheriff of Boone circuit court shall fail to comply with all or any part of the duties enjoined on them by this act, each of them shall be subject to a fine of one hundred dollars, recoverable by reasonable notice and rule of court to that effect, with proper time, in the Boone circuit court, in favor of the Commonwealth; which fine or fines, sum or sums, shall be applied as other fines are now directed by law, of a similar nature.

Clerk & sheriff
 of Boone liable
 to fine for fail-
 ure.

Sec. 4. *Be it further enacted*, That the clerk of the Scott circuit court shall be, and he is hereby authorised to issue a *venire facias*, *subpœnas*, and all other necessary process, as though the said prosecution had commenced in his own court.

Clerk of Scott
 to issue *venire
 facias*, &c.

Sec. 5. *Be it further enacted*, That the witnesses attending the Scott circuit court, by recognizance or

Witnesses.

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subpoena, shall be allowed the same per day, and for travelling, as other witnesses going out of the county by legal process.

Preamble.

And whereas it is represented that James K. Laird and Gilbert Christian stand indicted and charged, before the Henderson circuit court, for the murder of Elijah Walton, and that, owing to the prejudice that exists in the minds of the citizens of Henderson county, against the said James K. Laird and Gilbert Christian, they cannot have a fair and impartial trial before a jury of the said county of Henderson: For remedy whereof,

Laird & Christian allowed a change of venue, from Henderson to Hopkins.

Sec. 6. *Be it enacted*, That a change of venue be granted and allowed to the said James K. Laird and Gilbert Christian, to the county of Hopkins; and it shall and may be lawful for the said Laird and Christian to appear at the court-house in the said county of Hopkins, on the first day of the next term of the said circuit court to be held in and for the circuit and county of Hopkins, and then and there deliver themselves up to the sheriff of Hopkins county, to answer to said indictment; and it shall be the duty of the said sheriff to present the said Laird and Christian to the said circuit court, whose duty it shall be to take cognizance of the said prosecution, in the same manner, and under the same rules and regulations of law, as though the said offence, with which the said Laird and Christian are charged, had originated in the county of Hopkins; and the judge of the circuit court shall have the same power and jurisdiction to try the said Laird and Christian, upon said prosecution or indictment, pronounce judgment, and cause the same to be executed, as he would have had and possessed, if said offence had been committed in the said county of Hopkins, as herein before expressed, and the prosecution shall proceed in the same manner, and the same challenge may be had, as could have been had in the said county of Henderson: *Provided, however*, that the said Laird and Christian shall not be discharged, either at the first, second or third terms of the said Hopkins circuit court, after said change of venue, if, though any casualty, a trial shall not be sooner had.

Duty of clerk and sheriff of Henderson.

Sec. 7. *Be it further enacted*, That it shall be the duty of the clerk of the circuit court of the county of Henderson, to make out full and complete copies of all the orders made in his court in said prosecution, and shall forward the same, together with all writs, bonds, re-

recognizances, indictments, or other papers filed therein, by the sheriff of his county, to the clerk of the circuit court of the said county of Hopkins, taking his receipt for the same; which duty shall be performed by the said sheriff with all possible dispatch, and he shall be allowed six cents per mile, in going to and returning from Hopkins county, to be paid out of the public treasury.

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Sec. 8. *Be it further enacted*, If either the clerk or the sheriff of Henderson circuit court shall fail to comply with all or any part of the duties enjoined on them by this act, each of them shall be subject to a fine of one hundred dollars, recoverable by reasonable notice and rule of court to that effect, with proper time, in the Henderson circuit court, in favor of the Commonwealth; which fine or fines, sum or sums, shall be applied as other fines are now directed by law, of a similar nature.

Penalty for a failure.

Sec. 9. *And be it further enacted*, That the clerk of the Hopkins circuit court shall be, and he is hereby authorised to issue a *venire facias*, subpoenas, and all other necessary process, as though the said prosecution had commenced in his own county.

Clerk of Hopkins to issue a *venire facias*, &c.

Sec. 10. *Be it further enacted*, That the witnesses attending the Hopkins circuit court, by recognizance or subpoenas, shall be allowed the same per day, and for travelling, as other witnesses going out of the county by legal process are.

Allowance to witnesses.

And whereas it is represented that William Frogg stands indicted and charged, before the Cumberland circuit court, for maliciously stabbing a man by the name of Rupe, and that owing to prejudices that exist in the minds of the citizens of Cumberland county, against the said William Frogg, he cannot have a fair and impartial trial before a jury of the said county of Cumberland: For remedy whereof,

Preamble.

Sec. 11. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a change of venue be granted and allowed to the said William Frogg, to the county of Wayne; and it shall and may be lawful, for the said Frogg to appear at the court-house in the said county of Wayne, on the first day of the next term of the said circuit court to be held in and for the circuit and county of Wayne, and then and there deliver himself up to the sheriff of Wayne county, to answer to said indictment; and it shall be the duty of the said sheriff to present the said William Frogg to the said

William Frogg allowed a change of venue, from Cumberland to Wayne.

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Writ of ad
quod damnum
allowed:

the said overseers and hands shall be, in all respects, subject to the same laws, rules and penalties, which are now in force, regulating the opening and keeping in repair the public highways.

Sec. 2. *Be it further enacted*, That any person aggrieved by this act, shall be entitled to his writ of *ad quod damnum*, as in other cases of the like kind.

[Approved, December 27, 1824.]

CHAP. 57.—An ACT for the benefit of Ermina M'Haney and Elizabeth Chrisman.

Recital.

WHEREAS it is represented to the present General Assembly, that William F. M'Haney, husband of Ermina M'Haney, has been guilty of felony, and divers other offences equally criminal, and finally abandoned her: Therefore,

E. M'Haney
divorced.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the bonds and obligations of matrimony, solemnized and existing between the said William and Ermina, be, and the same are hereby dissolved, and the said Ermina forever discharged therefrom.

Sec. 2. *Be it further enacted*, That the said Ermina is restored to her maiden name, and all the privileges and immunities of a *feme sole*.

Recital.

And whereas it is represented to this General Assembly, that Isaac Chrisman, late of Jessamine county, who intermarried with Elizabeth Chrisman, late Elizabeth Proctor, did feloniously steal and carry away a cream-coloured mare, the property of Elijah East of the county of Jessamine, and that the said Chrisman was taken into custody for the same, but effected his escape without a trial, and is now going at large: Wherefore,

E. Chrisman
divorced.

Sec. 3. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the marriage of the said Elizabeth Chrisman and Isaac Chrisman be, and the same is hereby dissolved, and that the said Elizabeth Chrisman be restored to all the privileges of a *feme sole*, and that she hereafter bear the name of Elizabeth Proctor.

[Approved, December 27, 1824.]

CHAP. 58.—An ACT for the divorce of Sally Buster.

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BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Robert Buster and Sally Buster, his wife, be, and the same is hereby declared to be null and void, so far as relates to the said Sally Buster, and that she be divorced and forever free from said contract, and restored to all the rights and privileges of a *feme sole*.

[Approved, December 27, 1824.]

CHAP. 59.—An ACT for the benefit of Jesse Baker, jun.

WHEREAS it is represented to the present General Assembly, that Mildred Baker, wife of Jesse Baker, junior, was, at the time of their marriage, pregnant by another man, of which the said Jesse was ignorant: Therefore, Recital.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage between the aforesaid Jesse and Mildred, shall be, and the same is hereby totally dissolved. Divorced.

[Approved, December 27, 1824.]

CHAP. 60.—An ACT for the benefit of Doshy Barlow.

WHEREAS it is represented to the present General Assembly, that James Barlow, of Monroe county, the husband of Doshy Barlow, has, by his cruel and inhuman treatment towards the said Doshy, compelled her to leave his house and seek refuge with her friends, and that said James refuses to permit her to return: Therefore, Recital.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Doshy Barlow be, and she is hereby declared to be forever divorced from the said James Barlow, her husband, and that the said Doshy Barlow be, and she is hereby restored to all the privileges of a *feme sole*. Divorced.

[Approved, December 27, 1824.]

CHAP. 61.—An ACT for the divorce of Elisha M'Cormas, from his wife, Rispha M'Cormas.

WHEREAS it is represented to this General Assembly, that sufficient cause exists for the divorce of Elisha M'.

1824.

Cormas, from his wife, Rispha M'Cormas, late Rispha Ward, and that said cause does not come within the provisions of the general act of assembly allowing divorces: Wherefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage between the said Elisha M'Cormas and his wife Rispha, is hereby made and declared to be utterly void, and that the said Elisha be forever free from the marriage aforesaid.

[Approved, December 27, 1824.]

CHAP. 62.—An ACT for the benefit of the Centre College.

Preamble.

WHEREAS the trustees of the Centre College of Kentucky, have petitioned the present General Assembly, stating that their funds are low, and that they stand in great need of pecuniary aid to sustain said institution, and that they have entered into a written agreement with the body of divines and elders of the presbyterian church in Kentucky, whereby they are to receive twenty thousand dollars, currency of the United States, for the use of said institution, if said agreement can be ratified, and some small change made in the acts of Assembly, incorporating said College; and it is deemed expedient to ratify said agreement:

Agreement between the trustees of the College and the Kentucky Synod, ratified.

Sec. 1. *Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky, That said arrangement or agreement be, and the same is hereby ratified; and that so soon as five thousand dollars, part of said twenty thousand, is paid into the treasury of said board of trustees, the chairman of said board of trustees, for the time being, shall acknowledge the receipt thereof on said written agreement, and shall subscribe the same, and shall acknowledge said agreement and receipt before the clerk of the County Court of the County of Mercer, or the Court of Appeals or General Court; and the said agreement in writing and receipt, shall thereupon, by order of such Court, be recorded, and copies thereof attested by the clerk, shall be good evidence in all the Courts in this Commonwealth; and upon the acknowledgment of said agreement as aforesaid, such change and modifications shall take place in the acts of Assembly incorporating said institution, as by said written agreement is provided: Provided, however, that if there be more trustees than eleven then in office, they may still retain their seats, until their number is reduced to eleven, by death, resignation, or oth-*

To be recorded, &c.

Proviso.

erwise; and such vacancies shall not be filled until such reduction of the number is made.

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Sec. 2. *Be it further enacted*, That so soon as the aforesaid contract shall be carried into effect, by the payment on the part of the Synod of five thousand dollars to the trustees of said College, they shall pay over to the treasurer of the Kentucky Asylum for the tuition of the Deaf and Dumb, in the notes of the Bank of the Commonwealth of Kentucky, all such sums as the said trustees may have drawn from the Harrodsburg branch Bank, on account of donations by the State to said College.

Trustees to pay over to treasurer of Deaf & Dumb Asylum, money received from Harrodsburg Bank.

Sec. 3. *Be it further enacted*, That nothing in this act contained shall ever be construed or interpreted so as to confer exclusive privileges or corporate powers on the said Synod or trustees, for religious or sectarian purposes; but only as authorizing them to control their own funds in said institution, according to the charter heretofore granted to said College; and no religious denomination whatever, shall be excluded from having their children educated therein; but the same shall be conducted as heretofore, upon the most free and liberal principles.

No religious denomination to be excluded from the benefits of the College.

Sec. 4. *Be it further enacted*, That the Legislature hereby reserve to themselves the right of repealing or amending this act, in any manner or form, when they may think the public good requires it: *Provided*, that no repeal or change shall take place in said charter so as to give the Legislature a control over the same or its funds, or divest the said trustees of any donation, bequest or devise, which may then have been vested in said trustees, until they refund to the treasurer of the trustees, the full value of the same, to be then fairly ascertained; and the sum thus refunded, shall thereafter be subject to the disposition of the said Synod.

Legislature reserve the right of amending or repealing this act.

Proviso:

[Approved, December 27, 1824.]

CHAP. 63.—AN ACT to incorporate the St. Joseph's College of Bardstown.

WHEREAS it hath been represented to the General Assembly of the Commonwealth of Kentucky, that there is a Seminary of learning at Bardstown, promoted and sustained by Roman Catholic clergymen of that place, by means of their own resources, industry and intelligence; that the said Seminary hath been open and free for persons of every denomination, the managers

Preamble:

1824.



thereof only requiring an observance of moral rectitude by the pupils, upon their entry thereof and during their continuance therein: And whereas it is not less accordant to the genius of this republic, than compatible with the sentiments of this Legislature, that the dissemination of learning and morality, are amongst the first attributes that should characterize its citizens:

St. Joseph's
College incor-
porated.

Sec. 1. *Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky,* That the said Seminary of learning shall be denominated and known by the name of the St. Joseph's College of Bardstown; that it shall be managed on principles that are liberal, equal and for the benefit of every class of citizens; and of any religious denomination; that they shall have all the benefits and literary honors of said College, according to their merit, under the directions and superintendence of the right reverend Benedict Joseph Flaget, Bishop of Bardstown, who shall be styled and known as the Moderator of said College, and Mr. David G. Chrattat, James Derigand, William Byrne, J. Hazeltine and N. Cooms, are hereby constituted the trustees thereof. The said trustees and their successors, by the name of the Trustees of the St. Joseph's College of Bardstown, shall be a body politic and incorporate, and as such forever to exist.

To be under
direction of
Bishop Flaget.

Trustees ap-
pointed.

Moderator to
be chairman of
trustees.

Trustees to
pass by-laws
& ordinances.

To keep re-
cords.

To have a seal.

The said moderator shall be chairman to the board of said trustees, and when in meeting, his power shall be equal to one of the trustees. Being thus constituted, they, or a majority thereof, shall form a quorum, who are authorized to pass such ordinances and by-laws, by a majority present concurring therein, that are not contrary to the constitution of the United States, that of this State or the laws thereof, for the use and benefit of the said College: *Provided, however,* the said moderator, from any cause whatever, should not be present at a meeting of the said trustees, which shall take place at least twice a year, or oftener if they think proper, the said trustees or a majority thereof, may appoint a chairman *pro tempore*, who shall for the time being, substitute the said moderator. The said trustees and moderator, shall keep a book or books and enter therein their proceedings, and when required, shall expose the same to the inspection of persons who have, and those who express an intention of sending pupils to the said College. The said trustees may have a seal, on which any device or inscription may be impressed they

shall think proper, [and may] alter or break the same at pleasure.

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Sec. 2. *Be it further enacted*, That the said trustees thus constituted, shall be called and known by the name of the Trustees of the St. Joseph's College of Bardstown; by that name may sue and be sued, implead and be impleaded, before any court of record, judges or justice of the peace, or body created by law, having jurisdiction of the subject matter about which the said suitor suits may be. The said trustees may receive any conveyance, gift, devise, bequest; make any contract, buy, sell, convey, &c. in this their corporate capacity, and have the same power that corporate bodies created by law have, that are consistent with this institution: *Provided*, that the rents and proceeds acquired by this corporate body, shall at no time exceed the amount of fifty thousand dollars per annum. The said trustees shall hold their station in the said College one year only, at which time the said moderator shall have the power of electing others, or the same if he should think proper, and increase the number to twelve, and this power may be exercised by him every year thereafter, or his successor or successors to the Bishoprick, and in case of the removal, resignation or death of either of the said trustees, his place may be supplied by an appointment that may be made by the said bishop or successor or successors, who may also become the moderators in the institution, and act and do as the said B. J. Flaget is empowered by this act to do.

Trustees vested with corporate powers.

Proviso.

Moderator to elect trustees annually, &c.

Vacancies, how supplied.

Sec. 3. *Be it further enacted*, That the said moderator and trustees shall have power to constitute and appoint a president and necessary and proper professors, tutors, masters and assistants, to instruct the students and scholars of said College, in all the liberal arts and sciences, and the ancient and modern languages, who shall be denominated professors of such arts, sciences or languages, as they may be nominated and appointed to teach. And the president and professors so appointed, shall be distinguished and known by the name of the President [and Professors] of the St. Joseph's College of Bardstown, and in that character shall be capable of exercising such powers and authorities, that the said trustees and their successors may delegate to them by their ordinances, for the instruction of all the students and scholars, and the wholesome and faithful government of said College: *Provided, however*, it is reserved to the Legislature of this Commonwealth, to with-

Moderator and trustees to appoint professors, tutors, &c.

Proviso.

1824.

Legislature
may withdraw
corporate pow-
ers.

draw the powers of incorporation from this institution; whenever they conceive the trusts and confidence abused, that are herein reposed; but as no funds have ever been given to this institution by this Commonwealth, so none are to be taken away, in the event of the withdrawal of the corporate capacity.

[Approved, December 27, 1824.]

CHAP. 64.—An ACT for appropriating the vacant Land in the State of Tennessee, between Walker's line and the latitude of thirty-six degrees and thirty minutes.

Preamble.

WHEREAS by the compact between this State and the State of Tennessee, settling the boundary line between the said States, and by the fifth article of said compact, it is in substance declared, that all the vacant and unappropriated lands in the State of Tennessee, east of the Tennessee river, and north of the parallel of latitude thirty-six degrees and thirty minutes north, shall be the property and subject to the disposition of the State of Kentucky, and that the State of Kentucky might rightfully make all laws necessary and proper for disposing of and granting said lands, or any part thereof; and it now appears to the present General Assembly of this Commonwealth, expedient to dispose of said vacant and unappropriated lands: Wherefore,

Lands within
certain bounds
may be appro-
priated at \$20
per 100 acres.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of March next, any person or persons may acquire title to as much vacant and unappropriated land in the State of Tennessee, between Walker's line and the latitude thirty-six degrees thirty minutes north, and between Cumberland river, near Oby's river, and Tennessee river, as he, she or they shall desire to purchase, upon the payment into the Treasury of this State the consideration of twenty dollars for every one hundred acres, and in the same proportion for a greater or smaller quantity; and after the said time, any person or persons may, in like manner, acquire title to as much vacant and unappropriated land, as he, she or they may desire to purchase, between the said Walker's line and the latitude aforesaid, and between the said Cumberland river and top of the Cumberland mountain, upon the payment of the consideration of ten dollars per hundred acres, and in the same proportion for a greater or smaller quantity; the payment for said lands to be made, to the Treasurer of this Commonwealth, who shall

Other lands at
\$10 per 100
acres.

Duty of the
Treasurer.

thereupon deliver to the purchaser a receipt, specifying the purpose for which it was paid, the quantity of land, and whether for land lying east or west of the Cumberland river, in the territory aforesaid; which, being delivered to the Auditor of public accounts, he shall give to such person or persons a certificate, in like manner, stating the quantity of land he, she or they may be entitled to, and whether lying east or west of Cumberland river. Upon lodging such certificate with the Register of the land-office, he shall grant to such person or persons a printed warrant, under his hand and seal of office, specifying the quantity of land and the territory in which it is to be located, and authorizing the surveyor, by himself or deputy, to survey and lay off the same; which warrant shall be valid, until executed by actual survey.

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Duty of the Auditor.

Duty of the Register.

Sec. 2. *And be it further enacted*, That the owners of such warrants shall lodge the same with the proper surveyor, hereafter mentioned, and shall cause an entry to be made on such warrant in a book to be by the surveyor kept for that purpose, and shall in such entry describe the land designed to be appropriated, with such reasonable certainty, that others locating lands may be enabled to avoid an interference therewith; and any entry so made, shall be good and valid against any subsequent entry for the same land.

Entries, how to be made, &c.

Sec. 3. *And be it further enacted*, That it shall be the duty of the owner of any entry, to cause a survey to be made on the land called for in such entry, within three months from the date of the entry; and it shall be the duty of the surveyor hereafter designated, to make such survey and record the same in a book to be kept for that purpose; and upon the payment of the usual fees allowed by law for similar services in this State, the surveyor shall deliver to the owner, his agent or attorney, the plat and certificate of survey, with the original warrant, upon producing which to the Register of the land-office of this State, the Register shall, without delay, issue a grant therefor according to law; and for registering the plat and certificate of survey, and issuing a grant thereon, the same fee shall be allowed as is now allowed by law in other cases of the like kind; and the fee to the Register for issuing and recording any land-warrant, issued by virtue of this act, and affixing the seal of office thereto, shall be fifty cents, to be accounted for as the other fees.

Surveys, when to be made, &c.

Warrants and surveys to be returned to the Register.

Register to issue patents thereon, &c.

1824.

Further duties
of Register and
surveyors.

Sec. 4. *And be it further enacted*, That the Register shall enter in a well bound book, to be kept for that purpose, the number, date, proprietor and quantity of acres of every warrant, in which book, a column for remarks shall be left; and the Register, whenever a survey is carried into grant or exchanged, shall enter the same therein, with reference to the book and page where the same may be found; and the several surveyors and Register and other officers, shall make use of different books in making entries, recording surveys, registering, issuing and recording grants, and in all other things shall keep the books, papers and records of the claims derived under this act, separate and distinct from the books, papers and records relating to land claims in this State.

One or more
surveys may be
made on the
same warrant,
&c.

Sec. 5. The owner of any warrant may have one or more entries and surveys made thereon, not exceeding in the whole, the quantity of acres specified in such warrant; but no entry or survey shall be for a less quantity than one hundred acres, unless the same shall be bounded all around by other surveys of prior existence, and in that case the surveyor shall state in the certificate of survey, the names of all the persons whose lines the same may bind on. The Register shall receive and register such survey so certified, for a less quantity than one hundred acres.

Further regulations respect-
ing surveys.

Sec. 6. *And be it further enacted*, That every survey made under the authority of this act, shall be bounded plainly by marked trees, stones or stakes, except where a water course or ancient marked line shall be the boundary. And the surveyor shall note at the end of each plat and certificate of survey, who were chain-carriers and marker, and shall write on the face of the warrant, executed in full, or to as many acres as the case may be, and sign his name thereto.

Survey and
warrant, when
to be returned
to the Register's
office.

Sec. 7. *And be it further enacted*, That every plat and certificate of survey made in virtue of this act, together with the warrant upon which it was founded, shall be lodged in the Register's office within six months from the date of such survey. When any warrant shall be carried into grant or exchanged, the register shall write on the face of the warrant, satisfied, or exchanged, as the case may be, and sign his name thereto.

Actual settlers
allowed pre-
emptions, &c.

Sec. 8. *And be it further enacted*, That any person who may be, at the passage of this act, an actual settler and resident on any of the lands in the territory aforesaid, shall have the exclusive right to appropriate

the place of his settlement and residence, with one hundred acres of land, including the centre of a square, when laid off to the cardinal points, at any time prior to the first day of August next, until which time no entry or survey (except by an actual settler and resident) shall be made, covering such actual settlement and residence; and where two actual settlers may reside so near each other as that the actual settlement and residence of each cannot be included in their respective surveys without interference, in that case, the distance between the two settlements is to be equally divided.

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Sec. 9. *And be it further enacted*, That the surveyors of the several counties in this State, bordering on Walker's line, with the assistance of their deputies, shall receive the entries and make the surveys required by this act; and in performing the business of making the entries and surveys required by this act, they shall respectively be bounded on the east and west by lines drawn at right angles, from the extreme corners (on the State line) of their respective counties, south, to the said parallel of latitude, thirty-six degrees and thirty minutes; and on the south, the said entries and surveys shall not extend beyond a line drawn east and west by the same line of latitude, thirty-six degrees thirty minutes. And it shall be no objection to any entry or survey, that it may begin in one of said divisions and extend eastwardly or westwardly into another of said divisions of territory.

Regulations to be observed by surveyors, &c.

Sec. 10. *And be it further enacted*, That the money arising from the sales of said lands, shall be subject to the future disposition of the Legislature.

Money subject to disposition of Legislature.

Sec. 11. *And be it further enacted*, That the surveys made under the provisions of this act, shall be run to the cardinal points, and shall not be in length more than twice the breadth; unless the adjacent older claims, may render it necessary to depart from the foregoing provisions; and all the warrants, entries, surveys and patents, issued in virtue of this act, shall be considered as made and issued at the risk of the claimants respectively.

Surveys, how to run, &c.

Sec. 12. *And be it further enacted*, That it shall and may be lawful for the Governor of this Commonwealth, and he is hereby required to appoint some suitable surveyor to run and mark a line in the said latitude of thirty-six degrees thirty minutes, from the Tennessee river to the top of Cumberland mountain. And the Governor of this State, shall transmit to the Governor of the

Governor to appoint a surveyor to run and mark a line on the parallel of latitude 36 degrees 30 minutes.

1824.

State of Tennessee, a copy of this act, with a notification of his appointment of a surveyor to run and mark said line, and request of the Governor of said State, the concurrence and assistance of said State, in the performance of said work.

[Approved, December 28, 1824.]

CHAP. 65.—An ACT to legalize the proceedings of the Trustees of the Town of Burlington.

Recital.

WHEREAS it is represented to the present General Assembly, that a number of deeds to lots in the town of Burlington, Boone county, have been executed by three of the trustees of said town, under a belief that that number was competent to convey the legal title vested in them, for the purposes for which that body was created; from which proceedings and conveyances, difficulties and inconveniences must result to the inhabitants and possessors of lots in said town, inasmuch as four of the said trustees were necessary to convey the title, as required by law, unless the said proceedings be explained and legalized: To remedy which,

Certain acts of said trustees, declared valid.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all deeds and conveyances of lots, made by three of the said trustees, in the town of Burlington, to purchasers for a *bona fide* consideration, be, and the same are hereby declared good and valid in law, to invest the conveyee with the legal title to all lots or parts of lots in the said town, as described in the said deed or deeds: *Provided, however*, that nothing herein contained shall be so construed as to alter or change any title or transfer which may have been made to any lot or lots, and which may have been, since said transfer, legally conveyed by the requisite number of trustees, nor in any manner affect the claim or title of any adverse claimant.

Proviso.

The acts and deeds of the trustees, declared as valid as if done by the original trustees, &c.

Sec. 2. *Be it further enacted*, That all deeds and acts heretofore made, done and performed by the trustees of the said town of Burlington, shall be as good and valid, as if made and done by the original trustees of said town, in conformity to the powers of trustees of towns in this Commonwealth, and in pursuance with the general laws on that subject; and that the present trustees and their successors, legally chosen, shall have power to do and perform all matters and things which the original trustees of said town had power to do, under the act by virtue of which they were appointed or chosen.

[Approved, December 28, 1824.]

CHAP. 66.—An ACT for the benefit of Martin Beatty.

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WHEREAS an act of the General Assembly was passed the 7th day of December 1822, in favor of Martin Beatty and others, authorising the said Martin Beatty to cause to be surveyed, any quantity of vacant and unappropriated land, not exceeding two thousand acres; by which act the said Beatty was bound to return the plats and certificates thereof to the Register's office, within twelve months after the same may have been executed; and whereas the said Martin Beatty having failed to return the same according to law: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Martin Beatty may have the further time of twelve months, to return his said plats and certificates of survey to the Register's office.

[Approved, December 28, 1824.]

CHAP. 67.—An ACT for the benefit of James Gilpin.

WHEREAS it is represented to this General Assembly, that James Gilpin, a citizen of Adair county, is in indigent circumstances, has a large family of small children, and is afflicted with a consumptive disease: Therefore, Preamble.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the land-office be, and he is hereby authorised and directed, on the application of the said James Gilpin, to issue to him a land warrant for one hundred acres of land, without the State price being paid for the same; which warrant may be surveyed upon any vacant and unappropriated land in the county of Adair, which is by law subject to location by land-office warrants. Register to issue a warrant.

[Approved, December 28, 1824.]

CHAP. 68.—An ACT for the relief of William Yates.

WHEREAS it is represented to the present General Assembly, that William Yates, whilst a youth and under the control of his father, committed felony, for which he was convicted and sentenced to confinement in the Penitentiary for one year, by the Adair circuit court; and owing to his minority, and an impression that he was induced to commit the felony by the per-

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suation of his father, the Governor, at the solicitations of the citizens of Adair, pardoned him; and doubts having arisen, whether the said Yates is entitled to all the rights and privileges of a citizen: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said William Yates be, and he is hereby restored to all the rights, privileges and immunities of a free citizen of this State, any law to the contrary notwithstanding.

Restored to the
privileges of a
citizen.

[Approved, December 30, 1824.]

CHAP. 69.—An ACT to authorise the Clerks of the Graves County and Circuit Courts to transcribe certain records.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the clerk of the county court of Graves county be, and he is hereby authorised to transcribe into a well bound book, all the orders and records of said court, which have been heretofore made or kept in unbound books, or on common paper; for which he shall be allowed one cent for every twenty words so transcribed, to be allowed and paid out of the county levy.

Clerk of county
court to
transcribe cer-
tain records.

Allowance
therefor.

Sec. 2. And that the clerk of the circuit court of Graves county be, and he is hereby authorised to transcribe into a well bound book, all the orders and records of said court, which have been heretofore made or kept in unbound books, or on common paper; for which he shall be allowed one cent for every twenty words so transcribed, to be allowed and certified by the circuit court, and paid out of the public treasury.

Clerk of circuit
court to trans-
cribe certain
records.

Allowance
therefor.

Sec. 3. *Be it further enacted,* That after the clerks of the courts aforesaid shall have copied all the orders and records into well bound books, as aforesaid, it shall be the duty of the clerks of the courts aforesaid, to call upon any two justices of the peace for the county aforesaid, to aid him; or them in comparing the orders and records aforesaid with the original entries; and if it shall appear to said justices, that the said records are truly transcribed, they shall certify the same to the county and circuit courts of said county.

Justices to in-
spect the co-
pies.

[Approved, December 30, 1824.]

CHAP. 70.—An ACT to authorise the County Court of Washington County to appoint one additional Constable in said County, and for other purposes.

1824.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the county court of Washington county is hereby authorised to appoint one additional constable, who shall reside at, or within ^{Where to re-} three miles of the mouth of Hardin's creek. _{side.}

SEC. 2. *Be it further enacted,* That the county court of Adair county is hereby authorised and required to appoint two additional constables in said county of Adair, one of whom shall reside on the north-east side of Caney fork of Wolf creek, in the neighborhood of Marcus Hulin's, and the other to reside on the south-east side of Foust's fork of Greasy creek; in the neighborhood of Colonel James Pierce's. County court of Adair may appoint two additional constables.

SEC. 3. *Be it further enacted,* That the county court of Christian county shall be authorised to appoint two additional constables for said county, one of whom shall reside within the present bounds of Captain John B. Radford's company of militia, and the other within the following bounds, viz. Beginning at the Sinks of Little river, on the road leading to Russellville; thence to Crabtree's horse-mill; thence to the widow M'Culloch's; thence to Hopkinsville, and thence to the beginning. County court of Christian may appoint two additional constables.

[Approved, December 30, 1824.]

CHAP. 71.—An ACT for the benefit of John Cocke and others.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Register of the land-office be, and he is hereby authorized to issue to John Cocke, a land warrant for one hundred and fifty acres of land, without the payment of the State price therefor, which may be located on the land whereon he now resides, in Cumberland county, if there shall be so much vacant land; and on the return of the plat and certificate of survey, the Register shall issue a patent thereon, as in other cases. Register authorised to issue a warrant to John Cocke.

SEC. 2. *And he it further enacted,* That the Register of the land-office be, and he is hereby authorised to issue to Alexander Dale, a land warrant for one hundred and fifty acres of land, without the payment of the State price therefor, which may be located on any vacant and unappropriated land north of Walker's line, and east of the Tennessee river; and on the return of a plat To issue a warrant to Alexander Dale.

1824.

and certificate of survey, the Register shall issue a patent therefor, as in other cases.

To James M' Reynolds. Sec. 3. *Be it further enacted*, That upon James M' Reynolds' filing with the Register of the land-office a plat and certificate of survey for two hundred acres of land, made upon a commissioners' certificate, No. 1,409, granted to Henry Elly in 1798, with the regular assignments thereon, or other legal transfer to him, the said M'Reynolds, the Register is authorised and directed to issue a patent for said two hundred acres of land; without the balance of the State price or Register's fee being paid thereon, as in other cases.

And whereas it is represented to this General Assembly, that William Durrington, of Caldwell county, a soldier of the revolution, is very poor and infirm; Therefore,

To Wm. Durrington. Sec. 4. *Be it enacted*, That the Register of the land-office is hereby authorised and directed to issue a warrant, in the name of William Durrington, for one hundred acres of land, without the payment of the State price, which may be located on any vacant and unappropriated land in the county of Caldwell.

To Wm. Sherrill, sen. Sec. 5. *And be it further enacted*, That the Register of the land-office is hereby authorised and directed to issue to William Sherrill, sen. a land warrant for one hundred and fifty acres of land, without the payment of the State price, which warrant may be located in the manner provided for by the second section of this act; and upon the production of the plat and certificate of survey to the Register of the land-office, he is directed to issue a patent therefor, as in other cases, without fee.

[Approved, December 30, 1824.]

CHAP. 72.—An ACT to establish the Town of Pikeville, in the County of Pike.

Recital. WHEREAS it is represented to the present General Assembly of the Commonwealth of Kentucky, that the land and public square upon which the court-house for the county of Pike is erected in the town of Pikeville, is in such a disputed situation, and claimed by so many persons holding adversely to each other, that the county court of Pike county are unable to condemn a town, under the general law regulating towns; and whereas it would tend much to the promotion of both public and private advantage, that the same should be vested in

trustees, with power to lay off a town surrounding said court-house and public square, and with further powers to sell and convey the same: Therefore,

1824.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all that part of the bottom on the south-west side of the Louisa fork of Sandy river, which is in the following boundary, to wit: Beginning at the centre of the public square of said town; thence running down said river; one hundred poles; thence at right angles to the foot of the hill; thence with the foot of the hill a south-eastern direction, so that a line will strike the same after running from the beginning point up the said river, sixty poles; thence at right angles across the bottom to the foot of the hill, shall be, and is hereby vested in John Bevins, Thomas Owens, John Williamson, sen. Kinsey B. Cecil, Richard F. Giddins, William Williams and Thomas May, gentlemen trustees, and their successors, to be by them, or a majority of them, laid off into lots, in such manner as they may think proper, with convenient streets and alleys through the same; and the said trustees, or a majority of them, shall be hereby vested with full power to convey to the county court of Pike county, the public square, for the consideration of one dollar, and the same shall be, and is hereby established a town, to be called and known by the name of PIKEVILLE.

The title to certain land vested in trustees.

The trustees to convey a part thereof to the county court.

Sec. 2. The said trustees, or a majority of them, shall, within six months after they have laid the same off into lots and streets, expose the lots to sale by public auction, for the best price that can be had for them, at the door of the court-house in said county, having first given two months' notice thereof, by advertising at the door of the court-house of Pike county, and by advertising for eight weeks successively in the public papers printed at Frankfort, Flemingsburg and Mount-sterling.

To make sale of the lots.

Sec. 3. They shall sell the said lots on a credit of twelve months, and shall take bond with good and sufficient security for the payment of the purchase money, payable to themselves or their successors in office, for the benefit of the proprietor or proprietors; in the condition of which bonds, the number of the lot or lots for the purchase of which the said bond is given, shall be inserted, and the holder shall always retain a lien on the said lot or lots, for the purchase money, until the same is paid,

To take bonds from the purchasers.

Lien to be retained on the lots.

1824.

The bonds to be assigned to the proprietors of the land.

Sec. 4. The said bonds shall be returned to the clerk's office of the Pike circuit court, there to be safely kept, and shall be assigned to the proprietor or proprietors, by the said clerk, when directed so to do by a decree or order of the said court; which assignment shall transfer the property of the said bond or bonds to the assignee or assignees, and enable him, her or them to maintain a suit thereon, in his, her or their own names; but if a proprietor shall become a purchaser of a lot or lots, he, she or they shall be entitled to receive the assignment of his, her or their own bond or bonds, to the extent of his, her or their interest in the town, when the question of right shall be settled.

Trustees to make conveyances.

Their compensation.

Sec. 5. The said trustees shall convey the lots so sold, to the purchaser, his, her or their assignee, in fee simple, as soon as the purchase money is paid; and it is hereby provided, that the said trustees shall be allowed a reasonable compensation for their services, to be adjudged by the circuit court of said county, and said court shall have the power to direct the same to be paid out of any of the notes that may be filed with the clerk of the said court for safe-keeping.

Vacancies in the board of trustees, to be filled by the county court.

Sec. 6. When any of the trustees aforesaid shall remove out of the county, die or resign, the vacancy or vacancies shall be filled by the county court of Pike county, a majority of all the justices of said court concurring therein, and the trustee or trustees so appointed, shall possess all the powers and qualifications that those do, who are appointed by the provisions of this act.

A plat of the town to be recorded.

Sec. 7. The trustees of said town shall, within one month after they have caused said town to be laid off, return to the clerk of the county court of Pike, a fair and correct plat of said town, giving a distinct view of the situation and extent of each lot, and of the public square, streets and alleys, the names of which, by the clerk of said court, shall be recorded in the book kept by him for recording deeds in.

Purchasers of lots may avoid paying interest on their notes, by making payment to the clerk of the circuit court.

Sec. 8. If the title of the land shall not be settled and finally determined, against the time the notes or bonds shall fall due for the sale of the lots in said town, the purchasers thereof may avail themselves from the payment of interest on their notes or bonds, by paying the same into the clerk's office of the circuit court of said county, under the direction of said court; and the said court shall cause said clerk to give bond with sufficient security, for the safe-keeping of any money that may

be so paid to him: *Provided, however,* the said court shall have the right to make such orders and decrees relative to the collection and disposition of the money arising from the sale of said lots, either by distributing it in just proportions between the tenants in possession, upon undoubted security, or by leaving it as a deposit in the hands of the clerk as aforesaid, until the successful claimant shall have fully and successfully asserted his claim to the said land, upon which he shall order the money to be paid to such successful claimant.

1824.

Proviso.

Sec. 9. The trustees of the said town shall call on five commissioners, who, or a majority of them, after taking an oath before some justice of the peace for said county, that they will faithfully, and to the best of their judgment, value the lasting and valuable improvements that may be on any of the lots in said town, and report the said valuation to the said trustees; and when any such lot or lots shall be set up for sale, the trustees shall notify the purchaser what is the amount of the value of improvements on the same; and if any person, other than those who own said improvements, shall purchase any lot with any improvement thereon, the person so purchasing any such improved lot, he, she or they shall execute their note to the party owning said improvement, payable within twelve months from and after the date thereof, with approved security, (which approval shall be determined by the said trustees,) and shall execute their bond or note for the overplus, to the trustees, as heretofore provided: *Provided, however,* no person shall be entitled to any pay for any such improvement, except the same shall be held under some legal or equitable title.

Commissioners to value improvements.

Purchasers to have notice of the amount of valuation.

To give bond for the payment thereof to the owner.

Proviso.

[Approved, December 30, 1824.]

CHAP. 73.—An ACT to erect Precincts in certain Counties in this Commonwealth, and for other purposes.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That all that part of the county of Morgan, which lies below the Narrows of Licking, shall compose one election precinct, to be known by the name of the North Fork precinct; and elections shall be held for said precinct at the place formerly occupied by Christopher Myers, on the North Fork of Licking.

In Morgan county.

Sec. 2. *Be it further enacted,* That all that part of the county of Morgan, which is watered by the waters of

1824.

Paint creek and its branches, shall compose one election precinct, to be known by the name of the Paint precinct; and the elections for said precinct shall be held at the house of Joseph Hanna, on said creek.

Graves.

Sec. 3. *Be it further enacted*, That all that part of Graves county, lying within the following bounds, shall be, and the same is hereby declared an election precinct, to be called the Western precinct, viz. Beginning on the Graves county line, where Owens' trace crosses the same; thence with said trace to the Tennessee State line; thence east, with the said State line, to the Calloway county line; thence with the Calloway county line to the beginning; and the election for said precinct shall be held at the house of Obadiah Morse.

Mickman.

Sec. 4. *Be it further enacted*, That all that part of Hickman county, lying within the following bounds, is hereby erected and established an election precinct, to be called the Bayou de Chien precinct, viz. Beginning on the Graves county line, where it crosses the dividing ridge between the waters of Bayou de Chien and Little Obion creeks, running with said dividing ridge to the Mississippi river; thence down the river to the State line; thence east, with the State line, to the Graves county line; thence with the county line to the beginning; and the election for said precinct shall be held at the house of James Willingham, jun.

Breckinridge.

Sec. 5. *Be it further enacted*, That all that part of Breckinridge county, lying within the following bounds, shall be, and the same is hereby declared an election precinct, to be called the Hudson precinct, viz. Beginning at the junction of the north and south forks of Rough creek; thence up the north fork to the head thereof; thence to intersect the line of Hardin and Breckinridge counties, at the head of M'Clung's Grove, where the old Salt river road crossed the same; thence with the Hardin and Breckinridge line to South Rough creek, and down the same to the beginning; and that the election in said precinct shall be held at the house of Joseph Hudson.

Harlan.

Sec. 6. *Be it further enacted*, That all that part of the county of Harlan, included in the following boundary, to wit: Beginning on the State line, due south of the mouth of Brownie's creek; thence north to the Clay county line; thence with the same to a point due north of the mouth of Wallin's creek; thence south to the State line; thence with the same to the beginning,

shall compose an election precinct, to be known by the name of the Pucket's creek precinct; and the elections in said precinct shall be held at the house of Elisha Green, Esq.

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Sec. 7. *Be it further enacted*, That the election in the Floyd precinct in Floyd county, on Licking, which has heretofore been held at the house of William Prater, be hereafter held at the house where Michael Risner now lives.

Sec. 8. *Be it further enacted*, That the precincts in the counties of Morgan and Lawrence, which were established in the present boundaries of said counties, before the said counties were formed, still exist, and are valid in law; and the elections in said precincts shall be held at the same places that they have heretofore been held at. Former precincts in Morgan and Lawrence, declared to exist.

Sec. 9. *Be it further enacted*, That any qualified voter of either of the aforesaid counties, may vote, in that county in which he is entitled to vote, at either of the places of holding elections in his county. Voters may vote at precincts.

Sec. 10. *Be it further enacted*, That all that part of Rockcastle county, lying within the following bounds, shall be, and the same is hereby declared to be an election precinct, to be called the Scaffold Cane precinct, viz. Beginning where E. Scott lives, on the Madison State road; thence along the ridge to the big saltpetre cave on Crooked creek; thence down said creek, so as to include all the settlers on said creek, to the mouth; thence up Roundstone, to where the road crosses from John Haley's to Elijah Smith's; thence along the dividing ridge between Roundstone and Copper creek, to the county line; thence with the county line to the most northwardly corner of said county; thence with the county line to the beginning; the election for said precinct to be held at the house of Capt. Hardick. Precinct established in Rockcastle county.

Sec. 11. *Be it further enacted*, That the sheriffs attending the elections at the several precincts herein named, shall meet at their respective court-houses, on the Friday succeeding the election, for the purpose of comparing the polls. Sheriffs, when to compare polls.

Sec. 12. *Be it further enacted*, That the county courts of the several counties herein named, shall appoint a clerk and judges to attend and take the votes at the several precincts before named, as in other cases. Clerks and judges to be appointed.

Sec. 13. *Be it further enacted*, That so much of an act approved December 29th, 1823, to fix the ratio and apportion the representation for the ensuing four years, Repealing clause.

1824.

Polls to be compared by sheriffs of Knox and Harlan.

as compels the sheriff of Knox county to meet at the court-house in Harlan county, be, and the same is hereby repealed.

Sec. 14. *And be it further enacted*, That the sheriff of Harlan county shall meet at the court-house in Knox county, on the same days and times as the sheriff of Knox was required by the before recited act, to meet the sheriff of Harlan at Harlan court-house; and that the sheriff of Harlan county be subject to the same fines and penalties, as the sheriff of Knox was formerly subject to, by the before recited act.

[Approved, December 30, 1824.]

CHAP. 74.—An ACT to authorize M'Murtry and Ward, of Greenup county, to raise their mill-dam across Little Sandy, higher.

County court to issue a writ of ad quod damnum, &c.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be the duty of the county court of Greenup county, upon the application of Joseph M'Murtry and William Ward, of Greenup county, or of such person or persons as may succeed them in the erection or ownership of the iron-works now building by them on Little Sandy, to award a writ of *ad quod damnum*; and the sheriff shall, in virtue of said writ, summon a jury of freeholders, as in other cases of a like nature; which jury shall be charged by the said sheriff, on oath, to enquire if any lands above the mill-dam now in the possession of said M'Murtry and Ward, will be overflowed by raising the said mill-dam two and a half feet higher; and if so, to say to the best of their knowledge, whose lands will be so overflowed, and of what damage it will be to the respective owners of said land so overflowed; and also, to say whether the first ford above the house of Willis Hord, on Little Sandy, will be obstructed by so raising said dam as aforesaid; and also, to say to what height said dam may be raised, without doing any damage to the lands of other persons above said dam, by overflowing the same, and without obstructing said ford.

May permit dam to be raised higher.

Sec. 2. *Be it further enacted*, That upon the return of the inquisition of the jury aforesaid, if it shall appear that the said dam may be raised two and a half feet higher, without thereby overflowing the lands of others, or obstructing the said ford of Sandy, the said county court shall cause an order to be made, giving the owners of said property liberty to erect their said dam two and a half feet higher, or such other height as

they shall choose, not exceeding that height, and which will not cause an overflow of the lands of others or obstruction of said ford of Little Sandy river.

1824.

Sec. 3. *Be it further enacted*, That if it shall appear by the return of said inquisition, that the lands of others will be overflowed by thus raising the said dam, that then the said M'Murtry and Ward, or other owners of said mill-dam, upon paying or tendering to the person or persons who will be so injured, the damages so assessed by the jury, shall have the privilege of raising said dam as aforesaid; and upon satisfactory proof being made to the county court of said county, that the payment or tender as aforesaid has been made, said court shall make an order granting leave so to raise the said dam to the height fixed upon by the jury, not exceeding two and a half feet, which height will produce the overflowing for which the damages aforesaid shall have been assessed, unless the said ford of Sandy will be obstructed by so raising said dam, and in that case, the said county courts may require the said applicants to enter into bond with approved security, in such penalty as shall be thought reasonable, conditioned for the erection and keeping in repair, a good and sufficient bridge across Little Sandy, at or near where the State road crosses the same, and that the said bridge shall be so erected before they shall so raise said mill-dam or obstruct said ford. And should the inquisition of the jury aforesaid, for any cause be quashed or set aside, the said court may, on the application of the owners of said mill-dam, from time to time award another, until the same shall have been correctly taken.

May grant permission, upon their paying the damages assessed, unless the ford is obstructed.

Or upon erecting a bridge across said stream, &c.

A new writ to issue, if inquisition under the first is quashed.

Sec. 4. *Be it further enacted*, That in case the owners of said dam shall undertake to build a bridge, as mentioned in this act, and shall fail to do so, having raised their dam so as to obstruct said ford, or shall at any time during the continuance of the obstruction to said ford, permit said bridge to be out of repair, the owners of said property shall be subject to indictment for a nuisance, and may, from time to time, be proceeded against as in other cases for offences of that kind, as though this act had not passed; and should the said bridge at any time during the continuance of such obstruction, be removed by high water or any other cause, the owners of said dam shall, with all practicable dispatch, proceed to rebuild the same, or reduce the height of their said dam, so as not to obstruct the said ford; and in case of failure, may be proceeded against as for a nuisance; and in all

The said dam, if raised higher, may be abated as a nuisance, for certain causes.

1894.

Mode of proceeding against them, for a violation of this act,

instances for a breach of the condition of said bond, and upon the order of the county court to that effect made, the attorney for the Commonwealth in the circuit court of that county, shall prosecute suit thereon from time to time, until the whole penalty shall have been recovered; and in case the jury shall find that the defendants have violated any one condition of said bond, they shall not find less damages than fifty dollars. The said bond shall be taken payable to the Commonwealth of Kentucky, and in that name shall be sued upon; and all damages recovered, shall be appropriated as other fines and forfeitures assessed before justices of the peace are.

[Approved, December 30, 1824.]

CHAP. 75.—An ACT establishing the seat of justice of Spencer county.

Established at Taylorsville.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the passage of this act, the seat of justice for Spencer county, shall be established in the town of Taylorsville, and that the public buildings shall be erected upon the public square now laid off in said town.

County court to erect public buildings.

SEC. 2. It shall be the duty of the justices of the peace of said county, to erect the public buildings in said town, in the manner now directed by law.

[Approved, December 30, 1824.]

CHAP. 76.—An ACT for the benefit of Fanny Rooney.

Divorced from her husband.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That Fanny Rooney, of Garrard, be, and she is hereby forever divorced from her husband, George D. Rooney, and is restored to all the rights and privileges of a *feme sole*, and shall be permitted to resume her former name, Fanny Edmiston.

[Approved, January 1, 1825.]

CHAP. 77.—An ACT authorizing Col. Richard Taylor to perform the duties of Tipstaff to the General Court, for a limited time.

To perform the duties for the next term.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That Col. Richard Taylor is hereby appointed Tipstaff, with power and authority to attend the General Court during their next term, and to perform all the duties heretofore required by law of said officer; and for his services he shall receive the

same pay and emoluments which said officer has heretofore received.

1925.

Sec. 2. *Be it further enacted*, That it shall be the duty of the said Taylor, to provide a comfortable room somewhere in the town of Frankfort, for said court to hold their succeeding sessions in, until otherwise provided for by law.

To provide a room for said Court to sit in.

[Approved, January 3, 1925.]

CHAP. 78.—An ACT for the benefit of the Sheriff of Harrison county.

WHEREAS the most active deputy sheriff of Harrison county, died of a short illness in the latter part of the month of October last, which has rendered it impracticable for the high sheriff of said county to settle with the Auditor for the revenue of said county, as required by law. He has obtained a quietus for the principal part of said revenue, and his securities are entirely solvent: Therefore,

Preamble.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That said sheriff be allowed the further time of six months from the passage of this act, to account for the revenue of said county, which became payable in the present year.

Allowed six months to account for revenue.

[Approved, January 3, 1925.]

CHAP. 79.—An ACT to provide for the sale of the vacant lands west of the Tennessee river.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be appointed by the Governor, with the advice and consent of the Senate, some fit person, to be styled the Receiver of Public Moneys for the Land District West of Tennessee river, who shall hold his office during the pleasure of the Governor for the time being, (and in case of vacancy by death, resignation or otherwise, it shall be filled as in other cases,) whose duty it shall be to keep an office at the town of Waidborough, in the county of Calloway; which office shall be opened on the first Monday in June next.

A Receiver of public moneys to be appointed, &c.

Sec. 2. It shall be the duty of the Receiver of Public Moneys, as aforesaid, to expose to public sale to the highest bidder, for ready money, at the town of Waidborough, on the first Monday in October next, all the unappropriated sections and fractional sections of land in said district, and continue from day to day until com-

Receiver to expose vacant lands to public sale on the first Monday in October next.

1825.

pleted, under the restrictions and limitations herein prescribed, except such sections or quarter sections, as have heretofore been sold or appropriated according to law, and such are reserved from sale by this act.

Not to sell, at the same time, more than one quarter section &c.

Sec. 3. The Receiver, in making the sales, shall not sell at the same time, a greater quantity than one quarter section, and if the same will not bring per acre, one dollar, it shall be stricken off to the State; nor shall the Receiver sell more than the sections in two townships in each day, beginning at the lowest number and selling the sections progressively.

To give the purchaser a certificate, &c.

Sec. 4. It shall be the duty of the Receiver to receive of the purchasers the amount of the purchase money, which they may have severally bid, and give such purchaser or purchasers a printed certificate, specifying the quantity of acres by him, her or them purchased, the price, number and situation of the quarter section, and in what township and range: *Provided*, that in any case where any one individual shall purchase a half, three-fourths, or whole section, he may give one certificate, including the whole land purchased; and upon the production of such certificate at the Register's office, the Register shall forthwith, as soon as practicable, issue a patent for the same to the original purchaser, his, her or their assignee or assignees, or his, her or their heirs at law, and record the same in a separate book or books, as in other cases; which grant, shall pass the title of this Commonwealth to the patentee; but in no case shall the Receiver give a certificate of sale, unless the whole purchase money has been paid. And if any person shall fail or refuse to pay immediately, the price by him or her bid for any land at such sale, when the same shall have been stricken off to such person, he or she shall forfeit and pay the sum of one hundred dollars, (to be recovered by information filed by the Attorney-General, in the General Court, to the use of the Commonwealth, upon application made to him by the Receiver,) and the Receiver shall immediately proceed to sell the land to the highest bidder, again, as though the same had not been previously sold, and such first purchaser shall not be permitted to bid for or buy the same.

Provide.

The Register to issue a patent thereon.

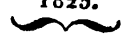
The purchase money to be paid before a certificate issues.

Penalty for failure to pay amount bid.

How recovered, &c.

Receiver to keep a record of sales.

Sec. 5. It shall be the duty of the Receiver, in making such sales, to keep a correct record of the same, describing therein the particular quantity and situation of each parcel of land by him sold, and the price of the same, and the name of the purchaser or purchasers, to

be by him kept as one of the record books of his office; and to enable the Receiver to perform this duty, it shall and may be lawful for him to employ one Clerk, during the time of making such sales, at the rate of three dollars per day. 1825.  May employ a clerk.

Sec. 6. When the Register issues any grant or grants, according to the provisions of this act, he shall carefully preserve the original certificate in his office, and record the same in a book or books to be by him procured for that purpose. Duty of the Register.

Sec. 7. The Receiver shall advertise the time and place of sale in some newspaper printed in the towns of Frankfort, Lexington, Louisville, Russellville, Henderson, Maysville and Hopkinsville, at least three months before the day of sale. Time & place of sales, to be advertised.

Sec. 8. The Receiver shall have power to employ a Crier to make said sales, whose compensation shall not exceed three dollars per day, for each day he may be employed in making the public sales; and the Receiver shall receive three hundred dollars per annum, as a stated salary for his services, payable quarterly out of the public Treasury, and three per cent. on all moneys received and paid over to the Branch Bank of the Commonwealth at Princeton; which commission, he is hereby authorized to retain out of any moneys received by him: *Provided*, the salary and per centage shall, in no event, exceed eight hundred dollars, Commonwealth's money, annually. Receiver may employ a crier.
Receiver's salary and compensation.
Provide.

Sec. 9. When any quarter section of land authorized to be sold by this act, shall have been offered for sale to the highest bidder, as herein directed, and stricken off to the State, the same may be entered with the Receiver, at the rate of one dollar per acre; and on the payment of the full amount of the purchase money for the same, the Receiver shall give him or her a certificate, as provided by the fourth section of this act, which shall entitle the purchaser or his assignee, or his, her or their heirs at law, to a grant, in the same manner as if the same had been sold at public sale. Land stricken off to the state, may be entered with the Receiver, &c.

Sec. 10. And the said Receiver shall, once in three months, (or oftener, if required by the Auditor,) pay over to the Branch Bank of the Commonwealth at Princeton, all moneys received by him for the sale of lands in said district, (deducting therefrom the commission allowed by law,) and take the Cashier's duplicate receipt for the same; which shall be placed as a deposit in said Bank, and shall be subject to the orders Moneys arising from sales, how to be disposed of.

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of the President and Directors of the principal Bank. And for the purpose of enabling the Cashier of the principal Bank to check for the same, under the order of the said President and Directors, it shall be the duty of the Receiver of Public Moneys for said land district, to file with the Auditor of Public Accounts, within twenty days after the date thereof, the receipt of the Cashier of the Branch Bank aforesaid, who shall issue a certificate of the amount to the Treasurer, which shall be the Treasurer's receipt for the amount thereof, as paid to the Bank of the Commonwealth of Kentucky, on the part of the State.

Receiver to give bond and security.

Condition thereof.

To be filed in the Auditor's office, &c.

To take an oath.

Sec. 11. The said Receiver, before he enters upon the duties of his office, shall enter into bond with good and sufficient security, to be approved of by the Governor, in the sum of fifty thousand dollars, conditioned for the faithful performance of the duties enjoined on him by law, and shall well and truly pay over to the Branch Bank aforesaid, all public moneys arising from the sale of public lands, as herein prescribed; which bond shall be filed in the office of the Auditor of Public Accounts, and may be put in suit for a breach thereof. And the said Receiver shall, before he enters on the duties of his office, before some justice of the peace, take an oath faithfully to discharge the duties of the office of Receiver of Public Moneys for the Land District West of the Tennessee river, to the best of his skill and ability, without favor or affection to the rich or the poor, and that he will not, either directly or indirectly, purchase any land at the said sales, or enter the same thereafter.

Receiver, not to purchase lands, &c.

Sec. 12. The Receiver shall not, either directly or indirectly, purchase any land at the sales hereby directed to be made; and should any such purchase be made, it shall be absolutely null and void.

What funds to be received in payment.

Sec. 13. The Receiver, in making the sales provided for by this act, may receive in payment therefor, notes of the Bank of the Commonwealth and the Bank of Kentucky and their Branches, gold and silver, or the notes of any specie-paying Bank in the United States.

Purchase money to be refunded in certain cases.

Sec. 14. If any lands sold under this act, shall be taken from the purchaser or his assignee, by a prior claim, adverse to the title acquired by the sale and purchase under this State, the said purchaser, or person claiming under him, shall receive the amount of the original purchase money, upon the production of the record and certificate of the Judge of the Court, that the said land

was lost upon a fair and full trial upon the merits of the respective titles, to the Auditor of Public Accounts, who shall issue his warrant on the Treasury for the amount of the original purchase money, without interest.

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Sec. 15. The Receiver's certificate that his Clerk and Crier have faithfully performed their duties, and of the number of days that they may have respectively acted, shall authorize the Auditor to issue his warrants on the Treasurer, for the compensation allowed by this act; and the Auditor is hereby authorized to make a reasonable allowance for advertising and stationary for said office, and issue his warrant therefor.

Mode of paying clerk and crier, &c.

Sec. 16. The Receiver shall not sell, under the provisions of this act, any section or portion of a section of land, which may be included in any military entry or survey, provided he is satisfied of such interference, by an attested copy of such entry or survey being served on him, or otherwise.

What land shall not be sold.

And whereas many persons have heretofore settled upon the public lands west of the Tennessee river, and made improvements, under a hope that some liberal provision would be made for them by their government: Therefore,

Preamble.

Sec. 17. *Be it further enacted*, That any person or persons, who were actual and *bona fide* settlers on any quarter section or fractional quarter section of land in said district, on the first day of November, 1824, who shall enter the same with the Receiver of Public Monies aforesaid, and shall pay to said Receiver, the minimum price fixed by this act, at least ten days previous to the day of sale, shall be entitled to a pre-emption for the same, on his producing to the Receiver satisfactory testimony, that he or she was an actual and *bona fide* settler on the same, on the first day of November, 1824; and where his or her improvement shall extend to more than one quarter section, not occupied by an actual settler, he or she shall be entitled to a pre-emption for any number of quarter sections so improved on, not exceeding two; and on the payment as aforesaid, it shall be the duty of the Receiver to give him or her a certificate, as in other cases; and the Register shall issue a grant therefor to the purchaser, or to his or her assignee, agreeably to the foregoing provisions of this act: *Provided*, in any case where there are two or more persons actual settlers on the same quarter section, the oldest settler shall be entitled to the preference.

Actual settlers allowed pre-emptions.

Certificate and grant to issue as in other cases.

Proviso.

1825.

Preamble.

And whereas there are many meritorious citizens, who, from the pressure of the times and the scarcity of a circulating medium, will be unable to enter and pay for their lands within the time prescribed by this act:

Provision for
the benefit of
actual settlers.

Sec. 18. *Be it further enacted*, That they shall be entitled to hold and occupy the same, for the term of three years, from and after the commencement of the sale, free from rent, subject to the provisions and restrictions of the nineteenth and twentieth sections of an act entitled "an act to provide for the sale of the public lands west of Tennessee river," approved December 21st, 1821.

[Approved, January 3, 1825.]

CHAP. 80.—An ACT for the benefit of the securities of Stephen Harper, late Sheriff of Floyd County.

Preamble.

WHEREAS it is represented to the present General Assembly of this Commonwealth, that Stephen Harper, late sheriff of Floyd county, has removed himself out of this Commonwealth, and has failed to return his list of delinquents to the Auditor of public accounts, and also failed to pay over the revenue due from said county, which neglect subjects his securities to the payment of the same: Therefore,

Allowed fur-
ther time.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the securities of Stephen Harper, sheriff as aforesaid, are allowed the further time of six months, from and after the first day of January 1825, to return the list of delinquents of the said Stephen Harper, as sheriff of the said county of Floyd, and pay over the amount of the revenue due from the said sheriff aforesaid, into the public treasury, due for the year 1823, and collectable in the year 1824.

[Approved, January 3, 1825.]

CHAP. 81.—An ACT to regulate the Circuit Courts within the fourteenth judicial district.

Muhlenberg,

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That hereafter the circuit court of Muhlenberg county shall be holden on the last Mondays in February, May and August, and shall sit six juridical days in each term, if the business of the court requires it; and that hereafter the Hopkins circuit court shall be holden on the first Mondays in March, June and September, and shall sit six juridical

Hopkins,

days in each term, if the business of the court requires it; and that hereafter the Union circuit court shall be holden on the second Mondays in March, June and September, and shall sit six juridical days in each term, if the business of the court requires it; and that hereafter the Henderson circuit court shall be holden on the third Mondays in March, June and September, and shall sit twelve juridical days in each term, if the business of the court requires it; and when there are five Mondays in said months, the said court shall sit eighteen juridical days, if the business require; and that hereafter the Ohio circuit court shall be holden on the first Mondays in April, July and October, and shall sit six juridical days in each term, if the business of the court requires it; and that hereafter the Daveiss circuit court shall be holden on the second Mondays in April, July and October, and shall sit six juridical days in each term, if the business of the court requires it.

1825.

Union,

Henderson,

Ohio,

Daveiss.

Sec. 2. *Be it further enacted*, That all process heretofore issued, or which may hereafter be issued from any of the said courts, shall be made returnable to the said courts at the times that they are herein directed to be holden.

Process, how returnable.

Sec. 3. *Be it further enacted*, That the county court of Daveiss county shall hereafter sit on the second Monday in each month, except the months in which the circuit court sits in said county; and that the county court of Ohio sit hereafter on the first Monday of each month, except those months in which the circuit court of said county is directed to be held; and that the county court of Muhlenberg shall hereafter be held on the fourth Monday of each month, except those months in which the circuit court of said county is directed by this act to be held.

County courts of Daveiss, Ohio and Muhlenberg, when to sit.

Sec. 4. *Be it further enacted*, That all acts or parts of acts coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

[Approved, January 3, 1825.]

CHAP. 82.—An ACT for the relief of the Sheriffs of Christian and Henry Counties.

WHEREAS it is represented to the present General Assembly of the Commonwealth of Kentucky, that Matthew Wilson, sheriff of Christian county, and Lawrence Gordon, sheriff of Henry county, have been una-

Preamble.

1825.

ble to collect the full amount of the revenue tax for the year 1823, due and payable the present year, on account of the indisposition of the first named sheriff and one of his deputies, for several months, and the death of one of the deputies of the latter: For remedy whereof,

Allowed further time.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the further time of three months be allowed the said sheriffs to complete the collection of the aforesaid tax, and return their delinquent lists, and settle with the Auditor, and pay the balance due, during which time the said sheriffs shall be exempt from suit or motion by the Auditor, as in other cases, any law to the contrary notwithstanding.

[Approved, January 3, 1825.]

CHAP. 83.—An ACT concerning Theatrical Performances.

Law authorising them to be taxed, repealed.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That such parts and provisions of any law authorising the trustees of any town in this Commonwealth to levy a tax, fine or imposition, upon the exhibition of any dramatic performance, within the walls of any regular theatre, owned in such town, in whole or in part, by a citizen or citizens of this Commonwealth, or by the manager or managers of a regular theatre, engaged in such exhibitions, shall be, and the same are hereby repealed.

[Approved, January 3, 1825.]

CHAP. 84.—An ACT concerning Kentucky Land Warrants which may have been lost.

A certified copy may be obtained.

SEC. 1. BE it enacted by the General Assembly of the Commonwealth of Kentucky, That when any original Kentucky land warrant shall or may hereafter be issued, and shall be lost, it shall be lawful for the person or persons in whose name the same was issued, or his heirs or assigns, to obtain a certified copy of the same from the Register's office, and go before some justice of the peace, and make oath that the original is lost, and that it has never been transferred to any other person, except such as are mentioned in the certificate on the back of such certified copy, and that the same is the property of the said affiant, and that the same has never been surveyed or appropriated in any manner whatever; and the surveyor of any county in this Common-

wealth shall be, and he is authorised to make a survey upon such certified copy, endorsed as aforesaid, in the same manner as if it was the original; and upon such plat and certificate of survey being returned to the Register of the land-office, endorsed as aforesaid, the Register shall receive the same, and act thereon as though it was the original.

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Register to receive and act on it.

Sec. 2. When any survey shall have been made upon any Kentucky land warrant, and the same shall be lost after the survey has been made and recorded, it shall be lawful for the person or persons in whose name the survey shall have been made, to procure from the surveyor, a certificate, sworn to before some justice of the peace, that such survey was made upon said warrant by him; and the person in whose name the survey was made, shall also go before some justice of the peace, and make oath that the survey, as named in the certificate from the surveyor, is the only survey that has been made on said warrant, and that he, the said assignee, was the owner of said warrant when lost; and upon such survey being presented to the Register, he shall be authorised to receive the same and act thereon as though it was the original.

If lost after survey, how to obtain a certified copy.

Sec. 3. Any person or persons who shall wilfully and knowingly take a false oath, in order to obtain the benefit of this act, shall be deemed and held guilty of perjury, and upon conviction thereof, shall suffer all the pains and penalties inflicted by law, for wilful and corrupt perjury; nor shall any patent obtained under or by virtue of this act, be of any avail, either in law or equity, where the same shall have been obtained by false affidavit made in pursuance of the provisions of this act, but the same shall be null and void, to all intents and purposes: *Provided, however*, that nothing in this act contained shall authorise the Register to receive any certified copy of a warrant or survey, where by law the original could not be received and registered.

Penalty for false oath.

Patent obtained by false oath to be void.

[Approved, January 3, 1825.]

CHAP. 85.—An ACT to amend an act entitled "an act to improve and keep open the navigation of the Beech Fork of Salt River, and other water courses."

WHEREAS the erection of mill-dams across the Beech fork and Rolling fork of Salt river, is found, from experience, greatly to injure the navigation of those rivers,

Preamble.

1825.

All laws authorising obstructions in said stream, repealed.

Dams contrary to acts now in force, deemed nuisances, and how to be abated.

County courts to divide Rolling and Beech forks into precincts.

Hands refusing to work, to be fined.

Fine on overseer, for neglect of duty.

Precincts, how to be laid off.

to produce to individuals heavy losses, and to diminish, in a considerable degree, the value of the products of the country washed by those streams: For remedy whereof,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all acts and parts of acts which authorise the erection of any dams or obstructions in either of those rivers, so far up the same as by law they have been declared navigable, be, and they are hereby repealed.

Sec. 2. *Be it further enacted,* That any dam which has heretofore been erected and built across either of those streams, within the points declared navigable, and which, at the passage of this act, was not made and completed in strict conformity to an act entitled "an act authorising mills to be built on the Beech fork of Salt river, and for other purposes," shall be deemed, held and considered as a public nuisance; and upon the same being presented as a public nuisance, by the grand jury of the county where the same may be returned, and the presentment found true by the petit jury, the court shall enter judgment, that the nuisance be abated, and have the same carried into execution.

Sec. 3. *Be it further enacted,* That the county courts of Nelson, Hardin and Washington, shall divide the Beech and Rolling forks into convenient precincts, appoint overseers, and allot hands to each overseer, whose business it shall be, from time to time, as the same may become necessary, to remove all dams unlawfully erected, or which may, by wilful negligence, be permitted by the owner or occupier, to get out of repair, by not having the slopes continued and kept up according to law, and obstructions in said rivers, and improve, as far as practicable, the navigation of said rivers; and if the hands allotted will not work on the river, when warned, they shall be fined the same amount, recoverable in the same way as fines for not working on the public roads are now recovered; and if the overseer shall neglect to do his duty, he shall, upon presentment of the grand jury, be fined at the discretion of the petit jury, not exceeding fifty dollars for each offence. The county court of Nelson shall provide an overseer and hands for the Beech fork, from its junction with the Rolling fork to the mouth of Hardin's creek, and for the Rolling fork, from the mouth of the Beech fork to Peter Atherton's; the county of Hardin, from there to the mouth of Salt-Lick creek; the county of Washing-

ton, from the mouth of Salt-Lick to Everhart's mill. The county of Washington shall appoint overseers and hands for the Beech fork, from the mouth of Hardin's creek to Sybert's mill.

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Sec. 4. *Be it further enacted*, That the hands who may be allotted to work on the rivers mentioned in this act, shall be exempt from working on roads.

Hands exempt from working on roads.

Sec. 5. *Be it further enacted*, That all fines recovered under this act, shall be applied towards opening and improving the navigation of those rivers, and the county courts of the respective counties shall direct the application thereof.

Fines, how appropriated.

Sec. 6. *Be it further enacted*, That all acts or parts of acts coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

[Approved, January 3, 1825.]

CHAP. 86.—AN ACT to provide for reporting the decisions of the Court of Appeals.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Governor shall nominate, and by and with the advice and consent of the Senate, appoint a fit person Reporter of the decisions of the Court of Appeals, who shall perform the same duties which were required of the late Reporter, and shall, on the same conditions, receive a like compensation, payable in the same manner, and be subject to the same rules and regulations as provided by the act entitled "an act to amend the several acts providing for the publication of the decisions of the Court of Appeals," approved December 11th, 1822; and also, subject to the provisions and conditions of an act entitled "an act prescribing the duties of the Reporter of the decisions of the Court of Appeals," approved January 7th, 1824.

Governor to nominate Reporter.

His duty.

Sec. 2. *Be it further enacted*, That in addition to the duty heretofore required by law, it shall be the duty of the Reporter to be appointed under this act, to publish, in his first volume, all the Rules of the Court of Appeals now in force, and in his subsequent volumes, to publish all alterations made in the said Rules, and all decisions given by the Court touching the same.

Further duty.

Sec. 3. *Be it further enacted*, That at the expiration of each period of two years from and after the date of the appointment of said Reporter, the term of service of such Reporter shall expire, and a new appointment

Commission, when to expire.

1825.

shall be made, as provided for in the first section of this act.

Number of copies to be taken by the State.

Sec. 4. *Be it enacted*, That instead of the two hundred and fifty copies which by said acts intended to be received, the Commonwealth will purchase only two hundred.

[Approved, January 3, 1825.]

CHAP. 37.—An ACT to attach the County of Nicholas to the first-district of the Bank of the Commonwealth of Kentucky.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county of Nicholas shall hereafter be attached to, and compose a part of the first district of the Bank of the Commonwealth of Kentucky.

Duty of the Cashier of the Falmouth Br. Bank.

Sec. 2. It shall be the duty of the Cashier of the Branch Bank at Falmouth, to certify and send to the President and Directors of the Branch Bank at Flemingsburg, the notes under discount for the citizens of Nicholas county, in said branch at Falmouth, when this act shall take effect; and thereafter all said notes may be received in the Branch Bank at Flemingsburg, in the same manner as if the original loan or loans had been made there, and the same lien shall attach in favor of the Branch Bank at Flemingsburg, upon any real estate which may have been mortgaged to the Branch Bank at Falmouth, as if said mortgage had been given to the Branch Bank at Flemingsburg, and the like proceedings had, in case of default; and the Branch Bank at Falmouth shall hereafter cease to renew or discount notes for the citizens of Nicholas county.

Amount of notes to be charged to the Flemingsburg branch.

Sec. 3. The Cashier of the Branch Bank at Falmouth shall, upon the production of the checks from the Cashier of the Branch Bank at Flemingsburg, for the amount of notes discounted in the Branch Bank at Falmouth, and which may have been renewed in the Branch Bank at Flemingsburg, under this act, cancel such notes, by carrying to the credit of notes discounted, the amounts thereof, and charging the same in an account current to the Branch Bank at Flemingsburg.

Additional Director.

Sec. 4. That the Branch Bank for said first district shall hereafter be entitled to, and have one additional Director, from the county of Nicholas.

Commencing clause.

Sec. 5. This act shall take effect from and after the first day of January; and all laws contravening the provisions of this act, shall be repealed.

[Approved, January 3, 1825.]

CHAP. 88.—An ACT to reduce the number of Directors of the Bank of Kentucky.

1825.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the first Monday in January 1825, the board of Directors of the Bank of Kentucky shall consist of a President and eight Directors, of which the President and four Directors shall be elected by the Senate and House of Representatives, and four Directors shall be elected by the stockholders, as heretofore. Reduced to eight.

[Approved, January 3, 1825.]

CHAP. 89.—An ACT for the benefit of the heirs and representatives of David Allen, deceased.

WHEREAS it is represented to the present General Assembly, that by the last will and testament of David Allen, deceased, his executors, John Barrett and James Allen, were authorised to sell all the lands of which he died possessed, when any one of his children arrived at the age of twenty-one years or married; that several of the said children and heirs of the decedent have married, and some have arrived at the age aforesaid, and according to the requisitions of the aforesaid will, the executors have sold the aforesaid lands; that part thereof was purchased by the decedent in his lifetime at sheriff's sale by virtue of an execution, which was not conveyed by the sheriff, before the death of the decedent: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for William Simpson, late sheriff of Green county, to convey by deed to the aforesaid executors, the land purchased by the said decedent, and sold by the said William Simpson, as sheriff, by virtue of an execution, according to the law now in force in this Commonwealth, providing for conveyances to be made to purchasers, for land sold under execution, and that said conveyance shall be as valid as if made to said decedent in his lifetime. Sheriff authorised to convey land.

[Approved, January 6, 1825.]

CHAP. 90.—An ACT to authorize the Trustees of the Kentucky Seminary to dispose of, by compromise, the interest of said Seminary in certain lands.

WHEREAS it is represented to this Legislature, that a tract of 562 acres of land, lying on the sinking,

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fork of Little river, in the county of Christian, being part of certain lands donated to the county court of Franklin county, for the use of a Seminary, and now vested in the trustees of the Kentucky Seminary for the use of the same, is found to be interfered with by adverse conflicting claims; and that the said trustees and the holders of the conflicting claims, have agreed to compromise their dispute, by the said trustees selling out their said claim for a given price, which is deemed advisable for them to do: Therefore,

Trustees may
compromise.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the present trustees of said Seminary, and their successors in office, be, and they are hereby authorized and empowered to enter into such compromise respecting said land, as they may deem advisable; and in that event, to convey to the party paying them for their said land, all the right, title and estate which said Seminary hath in and to the same.

[Approved, January 6, 1825.]

CHAP. 91.—AN ACT for the benefit of the infant heir of William Littell, deceased.

Preamble.

WHEREAS it is represented to the present General Assembly, that William Littell, late of Frankfort, died much embarrassed by debts; that his personal estate will not be sufficient to pay them; that if his real estate is sold under execution, it will not be enough to make up the deficiency; but if sold by a person who has the interest of the estate at heart, they may be paid, and something left for his infant son: For remedy whereof;

Court may de-
cree a sale.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful for the Franklin circuit court, on the petition of the testamentary guardian of the infant devisee of said Littell, setting forth all the real estate of which he died seized, the reasons why a sale thereof should be made, to decree a sale of all or any of the tracts of land or lots, of which the said Littell died possessed, whether he held the same entirely in his own right, or partially interested, as joint tenant or tenant in common with others. The sale to be decreed in such manner and upon such terms, as the court may deem most conducive to the interest of the estate.

Sec. 2 If the Judge of said court shall be of opinion that a sale of all or any part of the real estate shall take

place, he shall appoint a commissioner or commissioners to make it, and authorize him or them to execute deeds of bargain and sale, on behalf of the infant devisee; which conveyances shall vest in the purchaser, all his title to such estate.

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May appoint commissioner &c.

Sec. 3. The court shall require of the commissioner, previous to his proceeding under the decree, to execute bond with security, conditioned faithfully to discharge the trust, and to account for the proceeds, and to make report to the court from time to time.

Commissioner to give bond.

Sec. 4. The commissioner shall be allowed a reasonable sum for his services, to be fixed by the court, and the balance to be paid over to the executor, and to be considered as assets in his hands.

His allowance.

[Approved, January 6, 1825.]

CHAP. 92.—An ACT to regulate the town of Stephenson, and vest the title of the land set apart for said town, in certain trustees, and for other purposes.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the title of the land now laid off and heretofore set apart for the town of Stephenson, in Breckinridge county; is, by this act, vested in the present trustees, to wit: James Jennings, William E. Mathews, Thomas Helm, Andrew Avit and Samuel Allen, or their successors in office; and that the said trustees, and their successors in office, shall have full power and authority to convey any lot or lots, or part of lots, to any person legally and fairly entitled to such conveyance; and shall further have the power to lay off any other lots adjoining the lots now laid off, and convey them when so directed by the proprietors of the land.

Land condemned.

Trustees may convey lots.

Sec. 2. *Be it further enacted,* That any conveyance heretofore made by the predecessors of the present trustees of said town, shall be valid, notwithstanding said preceding trustees, might not, at that time, have been legally authorized so to do.

Conveyances heretofore made, declared valid.

[Approved, January 6, 1825.]

CHAP. 93.—An ACT for the benefit of the heirs of Hugh Fulton, deceased.

WHEREAS it is represented to the present General Assembly, that in the year 1816, Major Hugh Fulton, late of the county of Fleming, departed this life intestate,

Preamble.

1825.

leaving three negro slaves, one of whom has been allotted to the widow of the said deceased, the other two negro men slaves, named Nelson and Aaron, have descended to the children and heirs at law of the said deceased, and which negro slaves cannot be divided without a sale: For remedy whereof,

Commissioners
appointed to
sell.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Alfred Metcalfe, Edwin Pouge and John Shankland, or any two of whom, be, and they are hereby appointed commissioners, vested with full power to sell and dispose of said negro slaves, named Nelson and Aaron, at such time, and on such terms, and in such manner, as may be deemed most advantageous to those interested in said estate.

Sale and conveyance
declared valid.

Sec. 2. *Be it further enacted,* That any sale and title which may be made under the provisions of this act, by said commissioners, shall be as good and valid, to all intents and purposes, as if the same were made by the heirs of the said Hugh Fulton, deceased, when of full age.

Commissioners
to give bond,
&c.

Sec. 3. *Be it further enacted,* That the said commissioners, or any two of whom, (before they shall act,) shall, before the county court of Fleming; enter into bond with approved security, (which bond, shall be made payable to the Commonwealth of Kentucky,) under such penalty and in such form, as the said court may direct, with condition to pay over, as soon as they receive it, if of age, or to the guardian of any such infant heir, their respective portions; and upon failure, the party aggrieved may have and maintain an action on said bond, to his or her use, to recover his or her part or interest in said estate, in any court having jurisdiction thereof.

[Approved, January 6, 1825.]

CHAP. 94.—An ACT for the benefit of William Myers.

Register to issue
a grant, &c.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the land-office be, and he is hereby directed to receive the plat and certificate of survey, properly certified by the surveyor of Bourbon county, and issue a grant to William Myers, for two hundred and forty acres of land: *Provided,* the same shall not affect any prior claim or claims of any person or persons whatsoever.

Provide.

[Approved, January 6, 1825.]

CHAP. 95.—An ACT for the benefit of Cynthianna Hardin,

1825.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage of Cynthianna Hardin with William Hardin, be, and the same is hereby made null and void, and she is hereby divorced from her husband, William Hardin; and the said Cynthianna is hereby restored to her maiden name, Cynthianna Howey, and restored to all the privileges and enjoyments that she would have been entitled to, had said marriage never taken place,

Divorced from
her husband.

[Approved, January 6, 1825.]

CHAP. 96.—An ACT to add a part of the county of Caldwell to the county of Trigg.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of January, 1825, all that part of Caldwell county, lying within the following bounds, shall be added to and become a part of Trigg: Beginning on Cumberland river at the mouth of Crooked creek; thence a straight line to the house of Cain Ross, so as to include him in Trigg county; thence a straight line to the mouth of Sugar creek, on Tennessee river; thence up the same, with the Calloway county line, to the present Trigg line; thence with the same to the beginning.

Bounds of the
part of Cald-
well added to
Trigg.

Sec. 2. The circuit and county courts, justices of the peace of the county of Caldwell, shall have jurisdiction over all matters depending before them at the commencement of this act; and it shall be lawful for all sheriffs, constables and collectors in the said county of Caldwell, to collect all taxes, fines, and other moneys which may be in their hands for collection, and shall account for the same in the same manner as if this act had not passed.

Duty of courts
and officers.

Sec. 3. And the surveyor of Trigg county, or his deputy, is hereby authorized to run and mark the same, for which service, he shall be allowed a reasonable compensation by the county court of Trigg, out of their next county levy.

Surveyor of
Trigg to run
and mark line.

[Approved, January 6, 1825.]

CHAP. 97.—An ACT for the relief of the creditors and heirs of Nathaniel Harlan deceased.

WHEREAS it is represented that Nathaniel Harlan, late of Mason county, departed this life, leav-

Preamble.

1825.

ing a widow and several children, all of whom, except Rowena Harlan, are infants, and not leaving sufficient assets for the payment of his debts, and having purchased of William Tureman, a tract of land in said county of Mason, containing seventy acres, and for which payment has been made only in part to said Tureman, who yet holds the title to the said land. Wherefore,

Mason circuit court may decree a sale of certain property, &c.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the circuit court of Mason county, sitting in chancery, shall have power, on the joint application of the said William Tureman and the administrator of the said Nathaniel Harlan, Elizabeth Harlan, his widow, Rowena Harlan, and the infant heirs of the said Nathaniel Harlan, by their guardian *ad litem*, appointed by the said circuit court of Mason county for that purpose, to decree the sale of said tract of land, on such terms and in such mode as the chancellor may deem most conducive to the interests of all concerned, and direct that, of the proceeds of such sale, the said Tureman shall be first paid the balance due him for the said land, and the residue of the proceeds of such sale, shall pass into the hands of the administrator of the estate of the said decedent, as assets, to be applied to the payment of his other debts, or be distributed amongst his heirs, as the case may be: *Provided, however,* that the said William Tureman, in the application to the chancellor, as before provided for in this act, shall consent and agree to convey to the purchaser or purchasers of the land, his title thereto, in such manner and form as he agreed to convey the same to the said Nathaniel Harlan.

Proviso.

[Approved, January 6, 1825.]

CHAP. 98.—An ACT for the removal of the seat of justice of Meade county.

Preamble.

WHEREAS it is represented to the present General Assembly, that the citizens of Meade county labor under great inconvenience, in consequence of their seat of justice not being central, and that the inconvenience will daily increase, in proportion to the increase of population in said county; and that many other inconveniences would attend the present location, were the seat of justice to remain where it now is: For remedy whereof,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the seat of justice for

the said county of Meade, shall be removed to Brandenburg's ferry, on the Ohio river, to be located on the land of the said Solomon Brandenburg, upon the following terms and conditions, viz. It shall be the duty of the county court of Meade county, at their next February term, a majority of all the justices of said county being present, and if a majority should not attend at said term, then at the next or at any succeeding county court thereafter, to appoint five freeholders of said county, to be trustees of the town directed to be laid off by this act; that the said trustees shall proceed to lay off a town upon the land aforesaid, into convenient lots, streets and alleys, and also, to lay off a public square, not to be less than one acre of ground, for the purpose of erecting a court-house and other necessary public buildings thereon, which shall be the permanent seat of justice of Meade county: *Provided, however*, that the said trustees, before they proceed to act, shall obtain from the said Solomon Brandenburg, his consent in writing, that not less than sixty acres of the land aforesaid, shall be laid off into a town, and that he will make a donation for the use and benefit of said county, of one acre of ground, to erect the public buildings upon; and of at least one half of the proceeds which shall arise from the sale of said lots, for the purpose of aiding in the erection of the public buildings. And the said trustees shall carefully mark, by metes and bounds, the aforesaid lots, streets and alleys, and make out two fair plats thereof, one of which shall be recorded in the clerk's office of Meade county court, and the other shall be left for the use of the trustees of said town.

1825.

Removed to Brandenburg's ferry, on certain conditions.

County court to appoint five trustees.

Trustees to lay off a town, to be the permanent seat of justice.

Provided.

Sec. 2. *Be it further enacted*, That the said trustees, before they enter upon the duties delegated to them by this act, shall take an oath before some justice of the said county, that they will faithfully and impartially discharge the duties required by this act, according to the best of their skill and judgment; a certificate of which oath, shall be recorded in the clerk's office of Meade county court.

Trustees to be qualified before a magistrate.

Sec. 3. *Be it further enacted*, That the said trustees, after they have laid off said town, shall proceed to make sale of the lots thereof, upon such credit as they shall deem most advantageous to the said Brandenburg, as well as to the public, taking from the purchasers bond and sufficient security for the purchase money, a due proportion of which bonds or notes, they shall transfer to the said Brandenburg, upon the said Brandenburg

To make sale of lots, and transfer the notes to Brandenburg.

1825.

making to the said trustees and their successors in office, a deed of conveyance, with general warranty, for the land appropriated and laid off into a town aforesaid; and the residue of said notes, shall be collected by said trustees, who shall have full power and authority to sue for the same, in the name of the trustees of the town laid off by this act, and the amount, when collected, shall be paid over to the Meade county court, to be applied towards the erecting of the public buildings, as aforesaid; and the said trustees and their successors, shall have further power to convey to the purchasers of lots, so soon as the purchase money is paid, all the right and title of the said trustees.

To make report to county court within one month.

Sec. 4. *Be it further enacted*, That the said trustees shall, within one month after laying off said town and making a sale of said lots, return to the Meade county court a true and perfect report of all their proceedings, together with the agreement which they may have entered into with the said Solomon Brandenburgh, all of which shall be duly recorded in the clerk's office of the said Meade county court.

To give bond.

Sec. 5. *Be it further enacted*, That the said county court of Meade shall, at the time of appointing said trustees, take from them bond with security, in such amount as they may deem proper, for the proper discharge of their duties; which bond shall be taken to said justices and their successors in office, and may be put in suit by them, in case of the breach of the conditions thereof; that said justices shall also have power to fill up any vacancies that may happen in such board of trustees, by death, resignation or otherwise, or to remove any or all of them from office for an unfaithful discharge of the duties required of them by this act.

Vacancies, to be filled by the county court.

Trustees to examine whether title to land is free from adverse claims.

Sec. 6. *Be it further enacted*, That it shall be the duty of the said trustees, to examine and ascertain whether the title of said Solomon Brandenburgh to the land aforesaid, is free from any adverse claim, or the title thereof in any way doubtful; and should there be any doubts about the validity of the title, it shall be the duty of the said trustees, to require of the said Solomon Brandenburgh, to give such security in taking the deed of conveyance, as will secure the public, as well as those who may be the purchasers of lots.

After trustees report, courts to meet at the

Sec. 7. *Be it further enacted*, That as soon as said trustees shall report to the Meade county court that they have laid off said town, as aforesaid, the county court, as well as the circuit court of said county, shall

meet and hold their next succeeding courts at the house of the said Solomon Brandenburg, until the public buildings are completed, in the same manner as is now required by law; and it shall be the duty of the justices of said county, to proceed, with as little delay as possible, to erect the public buildings, upon the ground which may be set apart for that purpose.

1825.

house of said
Brandenburg
&c.

Sec. 8. *Be it further enacted*, That if the said Solomon Brandenburg shall refuse to give his consent, according to the provisions of this act, the said trustees shall have power and authority to receive proposals from any other persons, whose lands may lie upon the Ohio river, and to make choice of a site for the permanent seat of justice of Meade county: *Provided*, the same shall not be more than three miles distant from the said Brandenburg's ferry; and in case they shall make choice of a site, and a majority of the justices of said county shall approve thereof, they shall proceed to lay off a town, according to the provisions of this act, and shall, in other things, be governed as if they had laid off the seat of justice upon the lands of said Brandenburg.

If Brand-
burgh refuse to
convey, trus-
tees to receive
proposals from
other persons,
and lay off a
town within 3
miles of said
Branden-
burgh's.

[Approved, January 6, 1825.]

CHAP. 99.—An ACT to appropriate Fines and Forfeitures.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That so much of the said act as relates to the counties of Adair, Barren, Hickman, Graves, Calloway, Allen, Henry, Monroe, Logan, Gallatin, Wayne, Hart, Butler, Lewis, Pendleton, Breckinridge, Hopkins, Fleming, Bullitt, Nicholas, Bracken, Mercer, Whitley, Montgomery, Nelson, Clay, Perry, Rockcastle, Hardin, Grant, Estill, Grayson, Bath, Warren, Cumberland, Campbell, Madison, Todd, Harlan, Washington, Casey, Garrard, M'Cracken, Lawrence, Greenup, Pike, Ohio and Knox, and inconsistent with the provisions of this act, be, and the same is hereby repealed, and that all fines and forfeitures which may hereafter accrue in and to the aforesaid counties, be applied as theretofore; and that all officers, judicial and executive, in the said counties, be governed by the laws which were in force previous to the passage of the said act of the 14th of February 1820, on that subject.

Act of 1820 re-
pealed, as to
certain coun-
ties.

Sec. 2. *Be it further enacted*, That it shall be the duty of the respective county courts aforesaid, to call upon schools, seminaries or colleges, or their treasurers, who

Seminaries, &c.
to refund cer-
tain moneys.

1825.

may have the management of any funds which may have accrued from the application of the fines and forfeitures under the act aforesaid, and receive from the holder of the said fund, any money or sums of money which may be on hand, after all or any debts or engagements which may have been made or entered into upon the faith of such fund, by said trustees, are first satisfied, and apply such overplus to the lessening of their respective county levies.

Fines and forfeitures to be paid in notes on the Bank of the Commonwealth.

Sec. 3. *Be it further enacted*, That all fines and forfeitures now due, or hereafter to become due or imposed, may be discharged by the payment of notes on the Bank of this Commonwealth or its branches, so long as the said notes shall be received as revenue.

[Approved, January 6, 1825.]

CHAP. 100.—An ACT to erect Election Precincts in the Counties Meade, Hardin, Pulaski and Nelson.

County courts to appoint officers to superintend elections at precincts.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county courts of the counties of Meade, Hardin, Pulaski and Nelson, at the times they appoint clerks and judges to preside at their elections, shall appoint a clerk and judges to open polls, for the county of Meade, at the late residence of Robert Everin; for the county of Hardin, at the house lately occupied by Hezekiah Smallwood, on Meeting creek; at the house of John Buckles, on Nolin; at the house lately occupied by Hawkins, on the road leading from Elizabethtown to the mouth of Salt river; for the county of Pulaski, at the house of Robert M'Alister, on Buck creek, and at the house of Seaton Lee, on the west side of Fishing creek; and for the county of Nelson, at the house of Robert Levers; and the voters of said counties may attend at those places, in their respective counties, and give in their votes, in the same manner as they do now at their respective court-houses; and the sheriffs of the several counties above named, shall, by themselves or deputies, attend the places aforesaid, upon the several days of the election, and conduct the same in the same manner that they are directed by law to conduct the elections holden at their respective court-houses.

Sheriffs to attend at the precincts.

Times of comparing polls.

Sec. 2. *Be it further enacted*, That for the county of Meade, the polls shall be compared on the Friday after the election, at the place where court, at the time of

comparing, shall be holden; and for the counties of Hardin, Pulaski and Nelson, on the Friday after the election, at their respective court-houses.

1825.

[Approved, January 6, 1825.]

CHAP. 101.—An ACT to alter the time of holding the November term of the Owen Circuit Court, and for other purposes.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Owen circuit court shall hereafter commence its session on the first Monday in the month of November, instead of the second Monday, as heretofore allowed by law, and that said court may sit six juridical days, if the business before them should require it. When to be held.

SEC. 2. That hereafter a county court shall be held in the county of Owen, on the second Monday in the month of November in each and every year, any law, custom or usage to the contrary notwithstanding. County court to be held on the 2d Monday in November.

SEC. 3. That from and after the first day of January 1825, the county court of Morgan county shall be held on the first Monday in each and every month, except those months in which the circuit courts of said county are by law directed to be held, any law to the contrary notwithstanding. Morgan county court, when to be held.

SEC. 4. *Be it further enacted,* That hereafter the May term of the Bourbon circuit court shall commence on the first Tuesday, and shall continue twenty-three juridical days, if the business thereof shall require it. May term of the Bourbon circuit court.

[Approved, January 6, 1825.]

CHAP. 102.—An ACT to regulate the salaries of the Judges of the Court of Appeals, and for other purposes.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Chief Justice of Kentucky and the Associate Justices of the Supreme Court, who shall hereafter be commissioned under the provisions of an act approved December 24th, 1824, entitled "an act to repeal the law organizing the Court of Appeals, and to re-organize a Court of Appeals," shall each receive an annual salary of two thousand dollars, to be paid to them respectively, quarter-yearly, out of the public treasury. Salaries, and how paid.

SEC. 2. The Court by the aforesaid act established, shall have full power and authority to hear petitions for re-hearing, in cases decided at the last term of the May grant re-hearings.

1825.

late Court of Appeals, in all cases where fifteen judicial days had not elapsed between the time of rendering such decision and the day of adjournment of said Court, so as said petitions be moved within the first fifteen judicial days of the Court of Appeals which shall be holden under the act before recited.

Where to hold
their sessions.

Sec. 3. The said Judges of the Court of Appeals shall hold their sessions in such convenient house in the town of Frankfort, as the said Judges shall cause to be provided and fitted up for that purpose, until otherwise provided by the Legislature; and the Judges aforesaid are hereby authorised to certify to the Auditor of public accounts, the rent of the apartments, and the cost of fitting up the same, and of the necessary furniture, and the Treasurer shall pay the same upon the Auditor's certificate thereof: *Provided*, the sum so to be allowed shall not exceed the sum of one hundred and fifty dollars, annually.

Allowance for
house rent, &c.

When to meet.

Sec. 4. The said Court shall hold their first session on the fourth Monday in January, in the year 1825, and thereafter the stated sessions shall be as prescribed by the afore-recited act: *Provided, however*, if, from any cause, a majority of said Judges should not convene and hold the special term of the Court, on the day above directed, the said special term may be held at any time thereafter, prior to the next succeeding regular term: *Provided further*, that the salary hereby allowed to the said Judges, shall be paid and discharged in notes of the Bank of the Commonwealth of Kentucky or its branches, so long as said notes may be received in discharge of the revenue tax.

Proviso.

[Approved, January 6, 1825]

CHAP. 103.—An ACT for the benefit of Jesse Walker and others.

Further time
given to sur-
vey and pay for
land.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the further time of three years be given, from the fifth day of December 1824, to Jesse Walker, Samuel Walker, Joel Walker, George Walker, Pleasant Walker and Elias Walker, to survey and return to the Register's office the plats and certificates of survey of one thousand acres of land in Whitley county, which was granted to the said Walkers by an act of the General Assembly of this State, approved the fifth day of December 1821; and that the said Walkers have the further time of three years, to pay into the Treasury the sum of ten dollars for every hundred acres surveyed as aforesaid.

Sec. 2. *Be it further enacted*, That the further time of three years from the first day of January 1825, be given to the said Jesse Walker, to survey and return to the Register's office a plat and certificate of survey of five hundred acres of land in Whitley county, on Cumberland river, which was granted to him by an act of the General Assembly of this State, approved the 30th day of November 1821; and that the said Jesse Walker have the further time of three years allowed him, from the passage of this act, to pay into the Treasury the sum of ten dollars for every hundred acres surveyed as above.

1825.

[Approved, January 7, 1825.]

CHAP. 104.—An ACT to authorise Charles Mullens and Micajah Vanwinkle to erect a gate on a public road passing through their farms.

WHEREAS it is represented to the present General Assembly of the Commonwealth of Kentucky, that Charles Mullens and Micajah Vanwinkle live on the low grounds on the Cumberland river, and that the fencing around their farms is frequently carried away by high water, and that a public highway or road is laid off at right angles from the river through their farms, by which means their crops have been frequently destroyed by the neighboring stock: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Charles Mullens and Micajah Vanwinkle be, and they are hereby authorised, at their own proper cost and expence, to erect and keep up a gate or gates across said road: *Provided, however*, that they shall not prevent the free passage of travellers or neighbors, through said gate or gates.

Preamble.
May erect a gate under certain restrictions.

[Approved, January 7, 1825.]

CHAP. 105.—An ACT for the benefit of William Gordon and Elizabeth M'Pherson.

WHEREAS it is represented to this General Assembly, that William Gordon and Elizabeth M'Pherson, who emigrated from the Kingdom of Great Britain to the United States of America, in the year —, and settled themselves in the county of Logan in this Commonwealth, and by deed of gift from Evan M'Pherson, are now in the possession of one hundred and twenty acres

Recital.

1825.

Interest of the
Commonw'th.
in certain land,
relinquished.

Proviso.

of land in the said county of Logan, viz. the said William Gordon fifty acres, and the said Elizabeth M^r. Pherson seventy acres; and the said aliens not having resided within this Commonwealth the time prescribed by the laws now in force, to take the oaths of naturalization: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all the right, title and interest of this Commonwealth, to the said land, which the said Commonwealth now hath, or might hereafter have, in consequence of the said William and Elizabeth being aliens, be, and the same is hereby relinquished, and vested in the said William and Elizabeth, to all intents and purposes whatever, as fully and effectually as if they were natural born citizens of the United States, any law, usage or custom to the contrary notwithstanding: *Provided, however, and be it further enacted,* that if the said William and Elizabeth should be living when the time allowed for taking the oaths of naturalization shall have arrived, and they should refuse to take the same, then and in that case the provisions of the first section of this act shall cease and be of none effect.
[Approved, January 7, 1825.]

CHAP. 106.—An ACT for the benefit of Rebecca Watson and Henry Durham.

Recital.

WHEREAS it is represented to the present General Assembly, that Rebecca Watson, of Allen county, has for several years past been abandoned by her husband, Isaac Watson, who left her with several small children, wholly unprovided for, and went off with another woman, and that the said Rebecca is now living on a survey of fifty acres of vacant and unappropriated land in said county of Allen, which survey was made by Jacob Croslin, and assigned to the said Rebecca, who is unable to pay the State price for the same: Therefore,

Register to issue a patent to
R. Watson.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Register of the land-office is authorised and directed, upon the said Rebecca Watson's filing in his office the plat and certificate of the aforesaid survey, to issue a patent, without the State price or Register's fee being paid thereon, as in other cases.

Register to issue a patent to
H. Durham.

Sec. 2. *Be it further enacted,* That the Register of the land-office be directed to issue a patent to Henry Durham, of Allen county, for two hundred acres of land,

agreeable to an act of the General Assembly, passed at their November session 1823, without the State price being paid thereon. 1825.

[Approved, January 7, 1825.]

CHAP. 107.—An ACT for the benefit of the widow and heirs of James Shockley, deceased.

WHEREAS it is represented to the General Assembly, Recital. that James Shockley, the husband of Margaret Shockley, had his house consumed by fire, and was also consumed by the burning of his house; that he left a large and numerous family, who are in indigent circumstances, most of whom are females:

Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the land-office be, and he is hereby authorised to issue a warrant or warrants in the name of the said Margaret Shockley, for five hundred acres of land, to be located on any waste and unappropriated land in this Commonwealth, east of the Tennessee river; and upon the return of the plat or plats and certificate of survey to the Register's office, that he issue a patent or patents therefor, as in other cases. Register to issue a warrant.

[Approved, January 7, 1825.]

CHAP. 108.—An ACT for the benefit of William B. Duncan, late Sheriff of Hickman County.

WHEREAS it is represented to the present General Assembly, that William B. Duncan, late sheriff of Hickman county, did, in the year 1822, while all that portion of territory west of Tennessee river was organized as the county of Hickman, under the authority and by the direction of two justices of the peace, summon and keep a guard of six men for the safe-keeping of John Vandiver, who was committed to his custody for safe-keeping, (there being no jail,) on a charge of murder; and whereas the county court of Hickman county have failed or refused to allow the claim of Duncan and guards, on the ground that the Judge of the circuit court had not given the order for the guard: For remedy whereof, Recital.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of the county court of Hickman county, at their March or April term next, to examine the account of William B. County court to examine his account, and how to be paid.

1825.

Duncan, for guards, &c. and allow the same, agreeably to the existing laws, in the same manner as if the guards had been ordered by the circuit Judge, and certify the same to the county courts of Calloway, Graves and M'Cracken, who, together with the county court of Hickman, shall, at their next levy courts in October or November, 1825, proceed to levy the same in the following proportions: The county of Hickman, one seventh part; the county of Calloway, four sevenths; the county of Graves, one seventh, and the county of M'Cracken, one seventh part of the amount so allowed and certified by the county court of Hickman county; and the sheriffs or county collectors shall collect and account for the same, as in other cases.

[Approved, January 10, 1825.]

CHAP. 109.—An ACT for the benefit of the sheriffs of Adair, Union, Bullitt and Washington counties.

Further time given sheriff of Adair to pay revenue.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That three months' indulgence be given John Grissom, sheriff of Adair county, to pay into the public Treasury \$342 59, being part of the public revenue for the year 1823, in the said county of Adair.

Further time to sheriffs of Union, Washington & Bullitt, to return delinquent lists

SEC. 2. *Be it further enacted*, That the further time of sixty days be allowed to the sheriffs of Union, Washington and Bullitt counties, to make returns of their delinquent lists for the year 1823, into the Auditor's office, whose duty it shall be to certify the same to the Treasurer for payment, provided the said lists be duly certified.

This act shall take effect from and after the passage thereof.

[Approved, January 10, 1825.]

CHAP. 110.—An ACT further to regulate the Lunatic Asylum.

Vacancies, how filled.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That when any vacancy shall hereafter happen in the present board of commissioners, appointed by law for the government of the Lunatic Asylum, such vacancy shall not be filled, but said board may be reduced to five; which number, thenceforward, shall constitute said board.

SEC. 2. The commissioners for the time being, are hereby authorized and empowered to make such divi-

ions in the present Lunatic Asylum, and to erect such stoves, walls, cells and places of confinement, as are absolutely necessary to the safe-keeping and comfort of all persons confided to said Asylum, on the best terms practicable, not to exceed in amount the sum of three thousand dollars, which may be drawn quarterly from the Treasury, so soon as the Auditor shall be satisfied that so much work is done as comes to said quarterly allowance.

1825.

Commrs may make certain improvements. Appropriation therefor, and how paid.

Sec. 3. *Be it further enacted*, That the sum of seven thousand dollars is hereby appropriated for the maintenance of the lunatics in said hospital, which may be drawn quarterly in advance by said commissioners, out of any money in the Treasury, on obtaining the Auditor's warrant therefor, who is hereby authorized to issue the same, upon satisfactory proof being made, that bond with approved security has been filed in the Fayette county court office, in the penal sum of at least thirty thousand dollars, conditioned for the faithful application thereof.

Appropriation for maintenance of lunatics, and how paid.

Sec. 4. And whereas it is provided by an act entitled "an act to carry into operation the Lunatic Asylum," approved January 7, 1824, that idiots shall be permitted to remain with their parents, if their parents so desire, provided that a greater allowance shall not be made for keeping said idiot, than it shall cost for keeping said person in said Asylum; and it now being ascertained, that the cost of such idiot in said Asylum, will not exceed fifty dollars, *it is therefore enacted*, that the Auditor of public accounts is hereby authorized and required to issue his warrant on the Treasury, for the sum of fifty dollars, in behalf of such parent or parents, committee or committees of such idiot, when duly certified by order of court; which sum the Treasurer is directed to pay out of any money in the Treasury not otherwise appropriated; which shall be the standing rate of allowance in such cases, until altered by law.

Preamble.

Allowance to parent or committee for keeping an idiot.

[Approved, January 10, 1825.]

CHAP. 111.—An ACT to legalize the establishment of the town of Smithland, and confirm the sale of lots therein.

WHEREAS it is represented to the present General Assembly, that doubts have arisen as to the legal and permanent establishment of the town of Smithland, in Livingston county, and in consequence thereof, doubts have also risen as to the validity of the titles derived

Preamble.

1825.

from the trustees of said town, to lots therein: For remedy whereof,

Smithland declared to be legally established.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the said town of Smithland, in Livingston county, is hereby declared to be legally and permanently established, agreeably to a plan of said town, made under the direction of the trustees, on the 6th day of July, 1809, and by them filed in the clerk's office of said county, in 1809.

Acts of trustees declared valid.

Sec. 2. That all conveyances, and other acts and deeds of the said trustees of the town of Smithland, shall be as valid, to all intents and purposes, as they would have been, provided the said town had been legally vested in them heretofore.

Preamble.

And whereas it is represented to this present General Assembly, that Dickson and Joseph R. Given, are at present owners of in-lot number six, in said town of Smithland, which said lot was improved upon before the said town was laid out by the trustees in 1809, as mentioned in the first section of this act, a part of which improvement is on Water street, agreeably to the plan of said town, before referred to in this act: For remedy whereof,

Commissioners to be chosen to assess damages to D and J. R. Given.

Sec. 3. That the trustees of the said town of Smithland, shall choose one person, and the owners of said lot one other person, as commissioners to value so much of said property as may be on said Water street, as well as all damages which the said building may sustain by the removal of that part which may be on said street, for repairs that may be necessary to be made on said building, in consequence of the part so removed; and should the two commissioners disagree in their opinion, it shall be lawful for them to choose a third commissioner, who shall act in conjunction with the first two. The said commissioners shall make out two copies of the amount of damages by them assessed and sign them, one of which they shall deliver to the trustees of said town, and the other to the owners of said property.

On payment of damages, trustees may remove property.

Sec. 4. That if the said trustees shall pay the full amount of the damages assessed by the commissioners aforesaid, to the owners or owner of said property, within twelve months from the passage of this act, they are hereby fully empowered to have said property removed from said Water street, and shall not be liable to any suit or action whatever therefor: *Provided, however*, that should the said trustees refuse to act or pay over to said

Proviso.

owners, the amount of said damages as aforesaid, then and in that case, this act is in no wise to affect the title or boundary to which the said owners of lot number six, may have derived claim from any other source.

1825.

Sec. 5. *Be it further enacted,* That the said trustees shall cause a written notice to be served on one of the owners of said property, at least ten days previous to the day on which the valuation or assessment is intended to be made, stating therein the day set for that purpose; and the commissioners to be appointed under the provisions of this act, shall, before they enter on the duties assigned them, take an oath before some justice of the peace, to make a true and impartial valuation and assessment of damages agreeably to the provisions in this act contained: *Provided, however,* That if the owners of said property shall fail or refuse to choose a commissioner, when notified so to do by said trustees, it shall be lawful for said trustees to choose both, and when so chosen, shall proceed to act as is provided in the third section of this act.

Notice to be served on owner of property.

Proviso.

[Approved, January 10, 1825.]

CHAP. 112.—An ACT concerning the Baptist Church in the town of Maysville.

WHEREAS it is represented to the present General Assembly, by the baptist church in the town of Maysville, that in the year 1811, Edmund Martin and Susanna, his wife, conveyed to Rhodin Hord, William Grinstead and James Lawson, in trust for said church, a lot of ground in the town of Maysville, which they have since advantageously exchanged with Maurice Langhorne, for a certain other lot in the same town, and have erected upon the lot thus obtained of Langhorne, the present meeting-house of said church: And whereas in building the said house of worship, the church prevailed upon Samuel Lucas and Lewis Gordon, to borrow for them between two hundred and three hundred dollars, all of which money was expended in erecting the same; which sum, the said Samuel Lucas and Lewis Gordon, have since been compelled, greatly to their injury, to pay, and which the said baptist church is at present unable to refund to them, it being poor and greatly reduced in numbers: And whereas doubts are entertained whether the church had the power to make the aforesaid exchange with Maurice Langhorne, or have at present the power to make any disposition

Recital.

1825.

Exchange of
lots confirmed,
&c.

of the ground which they have thus secured, in exchange of Maurice Langhorne: Therefore,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the aforesaid exchange with Maurice Langhorne, shall be good and valid, to all legal and equitable purposes whatever; and if there is any defect in the deeds of interchange between the said church and said Langhorne, that the present trustees of record of said church, or their successors, are hereby authorized and empowered to give, execute and receive any deeds which they may deem necessary to complete the exchange.

Trustees may
lease out the
ground and
church, &c.

Sec. 2. *Be it further enacted*, That the present trustees of record of said church, or their successors in office, are hereby authorized and empowered to lease out at auction, or by private lease, the said lot of ground, with the building thereon, for a term of years sufficient to raise a sum, equal in amount to that paid for the said church by Samuel Lucas and Lewis Gordon, with interest thereon from the time of such payment; and when such sum is raised, to pay over the same to said Lucas and Gordon, and that any such lease or leases, made by the said trustees, pursuant to the provisions of this act, shall be good and valid in law, to all intents and purposes whatsoever; and the said trustees are hereby authorized to recover, before any court of competent jurisdiction, or before any justice of the peace, as the case may be, any moneys that may become due to them for rent, on any lease or leases made by them for the purpose aforesaid.

[Approved, January 10, 1825.]

CHAP. 113.—An ACT further to regulate the debt due the Commonwealth for the sale of vacant lands and the lands acquired by the treaty of Tellico.

Indulgence extended to Tellico settlers.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the act of Assembly entitled "an act further to indulge the settlers on the lands acquired by the treaty of Tellico," approved the 13th day of January, 1817, and continued by several amendatory acts until this time, be and the same is hereby revived and continued in force until the 16th day of January, in the year 1826.

Further time to return plats & certificates of survey.

Sec. 2. *Be it further enacted*, That the further time of one year, from and after the 16th day of January, 1825, be allowed for returning to the Register's office,

plats and certificates of surveys made on the lands acquired by the treaty of Tellico, under the several acts of this Commonwealth.

1825.

Sec. 3. *Be it further enacted*, That the act entitled "an act further to regulate the payment of the debt due the Commonwealth for the sale of vacant lands," approved January 11th, 1816, and the several acts amendatory thereto, shall be and the same are hereby revived and continued in force for and during the term of one year, from and after the 15th day of January next.

Certain acts revived.

Sec. 4. *Be it further enacted*, That all claims to land under certificates granted either by commissioners or county courts, by virtue of statutes of this State, which have been stricken off or forfeited to the State for the non-payment of any instalment of the price, may be redeemed by the payment of the whole amount due thereon, without damages, interest or costs: *Provided*, that no claim thus redeemed, where the land is not now actually settled under the same, shall interfere with any actual settler's claim, under any entry or survey; and all grants hereafter issued, contrary to the true intent of this provision, shall, to the extent of the interference, be absolutely null and void.

Lands stricken off to the state, may be redeemed.

Proviso:

[Approved, January 10, 1825.]

CHAP. 114.—An ACT to establish election precincts in certain counties in this Commonwealth.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That all that part of Owen county contained in the following boundary, to wit: Beginning on the line between Owen and Scott counties, where Steele's road crosses the same; thence with said line to the Grant county line; thence with the line between Owen and Grant, to the road which leads from Williamstown to Harrisburg; thence with said road, so far as to include William Cobb; thence a straight line to Heslersville on Steele's road; thence with said road to the beginning, shall form an election precinct; and that the qualified voters in said precinct, do meet at the house of James Herndon, in said precinct, for the purpose of voting in all legal elections.

Bounds of a precinct in Owen county.

Sec. 2. That all that part of Owen county contained in the following boundary, to wit: Beginning on the Kentucky river, at the mouth of Twinn creek; thence with the old original line of Owen county, to the Grant county line; thence with the said line, to Eagle creek; thence

Of another precinct in Owen.

1825.

down Eagle creek to Spencer's lick; thence with the Owen and Gallatin line, to the Kentucky river; thence up the river to the beginning, shall form an election precinct; and that the qualified voters of said precinct, do meet at the house of Nathan Hare in said precinct, for the purpose of voting in all legal elections.

In Christian.

Sec. 3. That all that part of Christian county contained in the following boundary, to wit: Beginning at Lindsey's mill, on Little river; thence up said river, to Jacob Sheffrell's; thence to Robert Higgins', on the Palmyra road; thence with said road, to the Tennessee State line; thence with the State line, to the Trigg county line; thence with the said line, to the beginning, shall form an election precinct; and that the qualified voters in said precinct, do meet at the house of John M'Gees, in said precinct, for the purpose of voting at all legal elections.

In Oldham.

Sec. 4. That all that part of Oldham county, included within the following boundary, to wit: Beginning at the mouth of Patton's creek, on the Ohio river; thence up said creek, to the house of John Adams; thence a direct line, to Marshall's old place, on Little Kentucky; thence down the said river, to the Gallatin county line; thence with the Gallatin county line, to the Ohio river; thence down the same to the beginning, shall be and the same is hereby erected into an election precinct in the county of Oldham; and that the qualified voters in said precinct, do meet at the house of James Young, in the town of Bedford, in said precinct, for the purpose of voting in all legal elections.

Of second precinct in Oldham.

Sec. 5. That all that part of the said county of Oldham, included within the following boundary, to wit: Beginning at Pettet's ferry, on the Ohio river; thence a direct line, to Mitchell Overstreet's; thence a direct line, to Fielding Ashley's, and the same course continued to the Shelby county line; thence with said line to the Jefferson county line; thence with said Jefferson county line, to the Ohio river; thence up the river to the beginning, shall be and the same is hereby erected into an election precinct in the said county of Oldham; and that the qualified voters in the said precinct, do meet at the house of George Pennell, in Brownsville, in said precinct, for the purpose of voting in all legal elections.

Sec. 6. That hereafter, the elections authorized by law to be held in the Kennikennick precinct in Lewis

county, shall be held at the house now occupied by Green Smith in said precinct. 1825.

Sec. 7. That elections shall hereafter be held at the court-house in the town of Pikeville, in the county of Pike, and at the house of Spencer Atkins in said county; and the county court of said county shall, at the time of appointing judges and clerks of election, appoint judges and clerks to attend at said places, as provided by law in such cases. Elections in Pike to be held at Pikeville. Judges & clerks to be appointed to conduct the elections.

Sec. 8. That the county courts of Owen, Oldham and Christian, at the time they appoint a clerk and judges to the election to be held at their court-houses, shall also appoint clerks and judges to preside at each of the election precincts herein established in said counties; and it shall be the duty of the sheriffs of said counties, to attend by themselves or deputies, and conduct the elections in said precincts; which elections shall be governed by the same rules and regulations as are now prescribed by law. Also, to conduct elections in precincts of Owen, Christian and Oldham.

Sec. 9. That the sheriffs who preside at the said precincts, shall meet the sheriff who may preside at the election held at the court-house in said counties, on the fifth day after the commencement of said elections, at their respective court-houses, and compare the polls and make return agreeably to the constitution and laws of this Commonwealth, concerning elections. Sheriffs, when and where to compare polls.

Sec. 10. That nothing in this act shall be so construed, as to prevent any person residing within the bounds of said precincts, from voting at their respective court-houses, if they may choose so to do. Voters in precincts may vote at court-houses.

Sec. 11. That hereafter the elections in the southwestern election precinct in Trigg county, shall be held at Canton, instead of being held at Allen Grace's, any law to the contrary notwithstanding. Place of voting at precinct in Trigg, changed.

[Approved, January 10, 1825.]

CHAP. 115.—An ACT further to regulate the Penitentiary.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That from and after the first day of February next, so much of all and every act or acts as authorises the appointment of a Keeper and Agent of the Penitentiary, by the Governor, be, and the same is hereby repealed. Acts concerning Penitentiary repealed.

Sec. 2. *Be it further enacted,* That from and after said first day of February next, Joel Scott, of Scott county, be, and he is hereby appointed Keeper and er. Joel Scott appointed keeper.

1825.

Agent of said Penitentiary, to have the whole and sole management thereof, and to continue in office, as such, until the first day of February 1832, subject, however, to removal by the Legislature, whenever, in their opinion, said Scott shall fail to manage said institution in such manner as the interest of the State may require.

Commissioners
appointed to
take inventory
of articles, &c.

Sec. 3. *Be it further enacted*, That Reuben Anderson, George W. Graham and Joseph Smith, be appointed to take an inventory of all the manufactured articles and raw materials belonging to said Penitentiary, and to fix thereupon such prices as in their judgment they will sell for in the currency of the country; which inventory and appraisement shall be made as aforesaid, on or before said first day of February next, signed by said Anderson, Graham and Smith, and lodged in the office of the Auditor.

\$6,000 to be
advanced to
Scott.

Sec. 4. *Be it further enacted*, That there shall be advanced to said Joel Scott, out of the first sale or sales of raw materials and manufactured articles in the Penitentiary, the sum of six thousand dollars in currency; on which sum the said Scott shall pay an annual interest of six per cent. to be computed from and after the first day of January 1826, and paid annually thereafter; and it shall be the duty of said Scott, at the expiration of the time he may continue as Keeper aforesaid, to refund and pay into the Treasury the said six thousand dollars, with the interest due thereon, in the then currency of the State: *Provided, nevertheless*, that said Scott may return said advance, with interest as aforesaid, at any earlier period.

Proviso.

Commissioners
to take inven-
tory of tools,
&c.

Sec. 5. *Be it further enacted*, That the commissioners appointed by this act, shall take an inventory of the tools belonging to the Penitentiary, and an appraisement thereof; that the same shall be delivered to said Scott, who shall receipt for the same, which receipt shall be filed with the Auditor of public accounts; which tools said Scott shall take charge of, for the use of said institution.

The convicts
to be employed
at labor by
Scott, and may
be punished,
&c.

Sec. 6. *Be it further enacted*, That it shall be the duty of said Scott to superintend said institution, and employ the convicts therein at hard labor, and in every respect treat them in such manner as will promote, as far as possible, the objects of the founders of the institution, and answer the benevolent expectations of the public; and in order to reform the refractory, it shall be lawful for said Keeper to inflict such punishment,

either by solitary confinement or otherwise, as may be reasonable and best calculated to effect the object.

1825.

Sec. 7. *Be it further enacted*, That it shall be the duty of the said Scott to employ not less than four suitable persons as a guard for the safe-keeping of said convicts: *Provided*, nevertheless, that no person shall be employed as such, unless by the approbation of the Governor.

A guard to be employed by Scott.

Sec. 8. *Be it further enacted*, That it shall be the duty of said Scott to employ one or more fit persons as clerks, whose duty it shall be to keep a true and faithful account of all the expenditures and income of said institution, and to make a just report thereof, when thereto legally required: *Provided*, that no person shall be appointed as clerk aforesaid, without the approbation of the Governor, nor shall any person act as clerk aforesaid, without having previously taken an oath, impartially and faithfully to discharge the duties of clerk of the Penitentiary.

And one or more clerks.

Proviso.

Sec. 9. *Be it further enacted*, That said Scott shall be at liberty to erect in said institution, such machinery for the manufacture of wool, cotton, or other articles, as he may deem best calculated to promote the interest of said institution, and for such purposes the labor of said convicts may be employed: *Provided*, all machinery so erected, shall, at the expiration of the time said Scott may continue as Keeper and Agent aforesaid, be the sole and entire property of the State.

Scott may erect machinery for the manufacture of wool, cotton, &c. and employ the convicts therein.

Proviso.

Sec. 10. *Be it further enacted*, That it shall be the duty of said Scott, annually, and during the first week of the session of the Legislature, to render a just account of said Penitentiary concern, and to keep his books and accounts at all times open for the inspection of the Legislature, or such person or persons as may from time to time be appointed for their examination.

To make an annual report to the Legislature, of the concerns of the institution.

Sec. 11. *Be it further enacted*, That it shall be the duty of said Scott to take upon himself the whole management and expence of said institution; to procure the raw materials for manufacture; to dispose of all articles manufactured in said institution, in such manner as he may deem best for the interest thereof; to provide for clothing and victualing the convicts, for their guard and safe-keeping, and to defray all other expences incident to the management and well-being of said institution.

The management and expence thereof to be borne by Scott, &c.

Sec. 12. *Be it further enacted*, That said Scott shall receive as a compensation for his services in the management of said institution, one half of the net profits

Scott to have one half of the net profits as his compensation.

1825.

Provision for a settlement of accounts, on Scott's death or removal from office.

thereof, after deducting the six thousand dollars to be advanced by the State.

Sec. 13. *Be it further enacted*, That in the event of the removal or death of said Scott, he or his representative, as the case may be, shall be entitled to one moiety of the net profits of said institution, which may at such time have accrued, after deducting the said sum as provided in the twelfth section of this act; and provided, that in no event, in estimating the net profits of said institution, shall any machinery erected by said Scott, in said institution, be taken into the account; but the same, as herein provided, to be the sole property of the State.

Scott to take an oath and give bond.

Sec. 14. *Be it further enacted*, That before said Scott shall enter upon the discharge of his duty as Keeper and Agent of said institution, he shall take the following oath: I, Joel Scott, do solemnly swear, that I will faithfully and impartially discharge the duties of Keeper and Agent of the Penitentiary, according to law. And that the said Scott shall also enter into bond, in the office of the Secretary of State, with five or more securities, to be approved of by the Governor, in the penal sum of fifty thousand dollars, payable to the Commonwealth of Kentucky, conditioned that he will faithfully perform the duties of Keeper and Agent of the Penitentiary, according to law, and perform all duties imposed by this act, and to refund the six thousand dollars, as provided by this act to be advanced by the State, with interest, and that he pay into the Treasury, from time to time, such portion of the profits of said institution as may be due to the State, and also, all other moneys which may from time to time be in his hands, belonging to the State; which bond shall be filed with the Auditor, and may be sued upon, on behalf of the Commonwealth, as often as the condition thereof shall be violated.

Condition of the bond.

The Governor to appoint a Keeper and Agent under existing laws, upon Scott's death or refusal to qualify.

Sec. 15. *Be it further enacted*, That in the event of the death of said Scott, or his refusal to qualify and give bond agreeable to the provisions of this act, it shall be the duty of the Governor to appoint a Keeper and Agent of the Penitentiary, who shall be in all respects governed by the laws now in force regulating the duties of Keeper and Agent of the Penitentiary, and shall continue in office until the end of the next session of the Legislature, unless otherwise provided by law.

Sec. 16. *Be it further enacted*, That all laws coming within the purview of this act, be, and the same are hereby repealed.

Sec. 17. *Be it further enacted*, That the commissioners appointed by virtue of this act, shall not value any of the building materials now on hand; but the said Joel Scott shall receive the same, and complete all the unfinished buildings in said Penitentiary, which are to be considered as expenditures out of said institution.

Building materials in the Penitentiary not to be valued.

Sec. 18. *Be it further enacted*, That the Auditor, Treasurer, Register, and Attorney-General, be, and they are hereby appointed a board of visitors, whose duty it shall be to visit the Penitentiary as often as they may deem expedient, and at least once in each month, and make examination of the state of the institution, the health of the convicts, the manner of dieting them, the cleanliness of the dormitories and cells, and the treatment of the convicts generally, and make such memoranda and observations as will enable them to report to each successive Legislature, their opinion as to the management and government of the institution.

A board of visitors appointed.

Their duty.

Sec. 19. *Be it further enacted*, That the exercise of the right of reprieve or pardon by the Governor, shall not, at any time, be considered by said Scott as a violation of the provisions of this act: *Provided, however*, that if the one half of the profits of said institution shall in any year fall short of the sum of one thousand dollars, the said Scott shall make up the deficiency, so as to guarantee a clear profit of at least one thousand dollars per annum to the State, after the first year; and the bond to be executed by said Scott, shall contain a clause binding him to comply with the requisitions of this proviso.

The governor's power of pardoning, &c. not considered a violation of the provisions of this act.

Scott to guarantee to the State \$1,000 per annum.

Sec. 20. *Be it further enacted*, That when any convict who has been confined in the Penitentiary, shall be discharged therefrom, the Keeper of the Penitentiary shall pay to said convict the sum of five dollars; which sum shall be paid out of the profits of the institution accruing to the State.

And to pay to each convict, upon his discharge, \$5.

[Approved, January 10, 1825.]

CHAP. 116.—An ACT to authorise a sale of a part of the Public Square in the Town of Irvine and County of Estill.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county court of Estill be, and they are hereby authorised to cause to be

County court to sell half an acre of the public square.

1825.

sold to the highest bidder, on such credit as the said court may deem most advisable, one half acre of the public square in the town of Irvine, in said county.

May appoint
commissioners
to convey the
title, who are
to give bond,
&c.

Sec. 2. *Be it further enacted*, That to effect the said sale, said court may appoint a commissioner or commissioners, and require of said commissioner or commissioners bond and approved security, conditioned to well and to render a just account of the proceeds of sale, and pay the same over to said court or its order, when thereto required. Said commissioner or commissioners shall convey the title of said ground to the purchaser, in ten days after the purchase money is paid. The funds arising from said sale shall be appropriated by said court towards building a new court-house for said county.

Proceeds, how
appropriated.

Owners of ad-
jacent lots to
file their con-
sent in writing.

Sec. 3. *Be it further enacted*, That the sale provided for in the foregoing sections, shall not take place until the owners of the lots adjacent to said half acre, shall file in said county court an assent in writing, to said sale, which shall be entered of record in said court.

[Approved, January 10, 1825.]

CHAP. 117.—An ACT for the benefit of Agnes Punteny.

Preamble.

WHEREAS it is represented to the present General Assembly, that Agnes Punteny, of Logan county, is exceedingly poor, and the mother of several small children, and that she now lives on a two hundred acre tract of land, for which she holds a certificate, No. 364, granted by the county court of Logan, in January 1802, on which certificate four instalments have been paid, and that the said Agnes is not now able to pay the balance of the State price, without much injury to her family:

Register to is-
sue a patent.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the land-office is hereby authorised and required to issue a patent to the said Agnes Punteny, for the aforesaid two hundred acres of land, without the balance of the State price being paid thereon.

[Approved, January 10, 1825.]

CHAP. 118.—AN ACT for the divorce of sundry persons.

1825.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the marriages existing between Elizabeth Grace and Sanders Grace, her husband; also, between Catherine Robertson and Abner Robertson, her husband; and also, Susan Shackelford and George Shackelford, her husband, be, and the same are hereby totally dissolved; and that the above named women be restored to all the privileges and immunities of *femes sole*.
 E. Grace.
 C. Robertson.
 S. Shackelford.

SEC. 2. That the marriage now existing between Mary Teater and George Teater, her husband, be, and the same is hereby totally dissolved; and that the above named Mary Teater be restored to all the privileges and immunities which she enjoyed before her marriage.

SEC. 3. That the marriage contract between Sarah Kenner and her husband, Rodham Kenner, be, and the same is hereby dissolved; and the said Sarah be, and she is hereby released from the marriage contract, and restored to all the rights and privileges of a *feme sole*.
 S. Kenner.

SEC. 4. That the marriage between Adam Fleetwood and Jincy Fleetwood, be, and the same is hereby totally dissolved and set aside, and the said Jincy restored to all the rights and privileges of a *feme sole*.
 J. Fleetwood.

[Approved, January 10, 1825.]

CHAP. 119.—AN ACT supplemental to an act to provide for the selection of a permanent Seat of Justice for Campbell County, approved 13th December 1824.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That at the general election in August next, to be holden in and for the county of Campbell, the sheriff, judges and clerk shall cause to be opened at the places where said election is holden, polls, whereby each citizen entitled to vote in said county for members of the General Assembly, may, in addition to his vote for members of the Legislature, express his election and vote between the four following sites proposed for the permanent seat of justice of said county, to wit, Visalia, Southgate, Newport and Covington; and each qualified voter, as he comes to the polls, shall be requested by the judges conducting said election, to designate one of said local positions as his first choice, and another as his second choice, for the
 A vote to be taken:

1825.

permanent seat of justice for said county, and the votes so given shall be set down accordingly.

To be certified to the county court, & their duty.

The place having a majority of votes to be the permanent seat of justice.

Sec. 2. It shall be the duty of the judges and clerks to certify a list of all the voters, and the places for which they voted, and forward the same, as taken before them, to the clerk of the county court, under their hands and seals; which said list or lists of votes shall be opened at the first county court in and for said county, next ensuing said election, and the said court having examined the polls, and purged the same from all illegal votes, if any may have been taken; and should they find, after purging the same, that either of the above named sites has a majority of all the qualified votes given on this subject, as their first choice, then the site having such majority of votes shall be the permanent seat of justice in and for said county; but if neither of said sites shall have such majority of the voters as first choice, then the vote which each site has received as second choice, shall be added to the votes which the same site has received as first choice, and the site having the greatest number of qualified votes as second choice and first choice added, shall be the permanent seat of justice for said county, provided such numbers, when added as aforesaid, shall be a majority of all the voters who have voted on that subject; and the county court, when the site is thus ascertained, shall have the same so entered of record.

County court may receive proposals for aiding in the erection of public buildings.

Proposals to be published, and to be binding on the party making them.

Sec. 3. The county court of Campbell shall and may, at any time before the first Monday in August next, receive any written propositions or agreements, from any person or persons, towards aiding in erecting the public buildings, at the respective sites above proposed, either of land, or money, or materials, or other things, so as the said propositions be in writing, and signed by the person or persons making the proposition, and duplicates thereof shall also be delivered to the justices of the county court, or some one or more of them appointed for that purpose; and a copy of each and every of the propositions which shall be so made, shall be posted up at the front of the houses at which the polls are taken, on the first day of the election. The propositions and agreements in relation to the particular site which may be chosen in the manner herein pointed out, shall, by the choice, become binding on the persons so making the proposition or propositions, according to the terms in the writing proposed; and the county court of Campbell, by the name and style

of "the County Court of Campbell," shall have full power and authority to sue in any court of competent jurisdiction, to enforce said proposition or propositions. 1825.

Sec. 4. If no choice be made at the next August election, of a permanent seat of justice of said county, as herein set forth, the polls and votes shall be taken in like manner, at the general election in the next, and every successive year, until a choice shall be made of one of the local positions, in the manner herein before described. If no choice be made, the vote may be repeated.

Sec. 5. The first section of an act passed at the present General Assembly, entitled "an act to provide for the selection of a permanent seat of justice for Campbell county," shall be, and the same is hereby repealed. First section of recited act repealed.

[Approved, January 10, 1825.]

CHAP. 120.—AN ACT for the benefit of the Union County Seminary.

WHEREAS it is represented to the General Assembly of the Commonwealth of Kentucky, that the buildings of the Seminary of Union county, located at Morganfield, have, by accident, been destroyed by fire; that nearly all the funds and property belonging to the Trustees of said Seminary, had been converted and vested in said building; that in the erection of the said building, a large portion of the expences incurred, were furnished by individual contributions; that the Trustees are entirely unable, through the want of means, of rebuilding the house necessary to put the Seminary into operation, without the further aid of the government: For remedy whereof, Preamble.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Register of the land office be, and he is hereby directed to issue, upon the application of the said Trustees or their successors in office, a warrant or warrants, not exceeding two thousand acres, to be located on any unappropriated land belonging to this Commonwealth: *Provided,* the same shall not be located on the lands west of the Tennessee river. 2,000 acres of land granted to said Seminary. Proviso.

Sec. 2. *Be it further enacted,* That the said Trustees are hereby directed to make sale of the said lands, in such manner as they may think most conducive to the interest of said institution, and apply the money arising from said sale to the rebuilding of said Seminary at Morganfield. Trustees to sell the same, and erect a building.

1825.

Locations not
to contain less
than 100 acres.

Sec. 3. *Be it further enacted*, That the Trustees of said Seminary, in the location of the warrants herein granted, shall not be permitted to locate any tract or parcel of land which shall not contain at least one hundred acres.

[Approved, January 10, 1825.]

CHAP. 121.—An ACT for the benefit of Emily Nixon and Beverly Luster.

E. Nixon di-
versed.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the marriage contract between Emily Nixon and George Nixon, her husband, be, and the same is hereby dissolved and set at naught, and the said Emily released from all further matrimonial ties and engagements with the said George Nixon, and restored to all the rights and privileges of a *feme sole*.

B. Luster di-
versed.

Sec. 2. *Be it further enacted*, That the marriage heretofore existing between Beverly Luster and Nancy Luster, his wife, be, and the same is hereby totally dissolved and set at naught, and the said Beverly Luster and Nancy, his wife, released from all further matrimonial ties and engagements, and restored to all the rights and privileges of single persons.

[Approved, January 10, 1825.]

CHAP. 122.—An ACT for the benefit of Edmund Bartlett.

Preamble.

WHEREAS it is represented to the General Assembly of this Commonwealth, that Edmund Bartlett caused to be purchased for him, by Achilles Sneed, at the Register's sales of non-residents' lands, in November 1807, a certain tract of land, listed with the Auditor of public accounts as the property of John Robinson, a non-resident of this State, and that a certificate was issued by the Register to said Sneed, which he transferred to said Bartlett; that the said certificate is lost or mislaid, and cannot be produced to the Register, without which the Register refuses to make a deed, although his books show that such sale has been made, believing it to be necessary for him to have such original certificate, before he should make a deed: For remedy whereof,

Register to is-
sue a deed on
a lost certifi-
cate.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the present Register be requested, and he is hereby authorised to make to said Bartlett a deed in the usual style with others for the

like purchases; which deed shall be as good and valid against the Commonwealth, said Sneed and said Robinson, as if made on the production of said original certificate; but it shall in no wise injure the right and title of any other person who may claim the land by virtue of said certificate, should it ever appear to have been transferred by said Sneed or said Bartlett, previous to the making said deed.

1825.

This act shall be in force from and after the passage thereof.

[Approved, January 10, 1825.]

CHAP. 123.—An ACT for the benefit of the Sheriff of Bath county.

WHEREAS it is represented to the present General Assembly of the Commonwealth of Kentucky, that the sheriff of Bath county, in consequence of some mismanagement in one of his deputies, has failed to pay into the public Treasury, the amount of revenue tax due from said county, for the year 1823, for which amount judgment has been rendered against him by the general court of this State: For remedy whereof,

Preamble.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the further time of thirty days, be allowed him to pay the revenue into the public Treasury, and that no further proceedings be had against the said sheriff, until the expiration of said thirty days.

Further time to pay revenue.

Sec. 2. *Be it further enacted by the authority aforesaid,* That upon the said sheriff's paying into the public Treasury, the amount of the revenue aforesaid, within the time aforesaid, and to the clerk of the general court the costs of said motion, he shall be allowed a credit for the amount of his delinquent list, as though the same had been presented in the time prescribed by law; which payment, when made, shall be in full discharge of said judgment.

Proceedings in general court, when to be discontinued.

[Approved, January 10, 1825.]

CHAP. 124.—An ACT to reduce the price of vacant lands north of Walker's line.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, any person or persons, except aliens, may acquire title to so much waste and unappropriated land in this Commonwealth, as he, she or they may desire to

Price of land reduced to \$5 per 100 acres, &c.

1825.

purchase, on paying the consideration of five dollars for every hundred acres, and so in proportion for a greater or less quantity, and shall acquire title under the same rules and regulations as now prescribed by law: *Provided, however*, that no survey shall be made on any such warrant, west of the Tennessee river or south of Walker's line; nor for a less quantity than fifty acres, except the same shall be bounded all around by prior existing claims.

[Approved, January 10, 1825.]

CHAP. 125.—An ACT to change the place of comparing polls in the eighth Senatorial District.

Sheriffs to meet
at Morse's, and
when.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter the sheriffs of the counties composing the eighth senatorial district, shall meet at the house of James Morse, at Morse's ferry on Tennessee river, in Caldwell county, on the Tuesday succeeding the second day of the election, to compare the polls for senator, instead of the time and place heretofore designated by law.

[Approved, January 11, 1825.]

CHAP. 126.—An ACT to amend the law regulating the distribution of the Statute Laws and Journals of this Commonwealth.

Each justice of
Morgan allowed
a copy of
the Digest.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That each justice of the peace of Morgan county, shall be entitled to a copy of the Digest Laws; and that the Secretary of State, at the time of distributing the different Acts of Assembly, for the year 1824, be authorized and directed to deliver, or cause to be delivered to the clerk of Morgan county, the aforesaid Digest of the Statutes.

Secretary of
State to cause
certain Re-
ports to be dis-
tributed.

Sec. 2. *Be it further enacted*, That it shall be the duty of the Secretary of State, at the time of distributing the Acts of Assembly, to forward to the clerks' offices of each of the county and circuit courts in the several counties in this Commonwealth, a copy of the different volumes of Reports, which by law are directed to be furnished, in all those instances in which they have not already been forwarded to such clerks' offices; and the Secretary shall, from time to time, as new counties may be erected, furnish them with the Acts of Assembly, the Digest, and a copy of the several volumes of Reports, and a copy of the several Acts of Assembly not contain-

ed in the Digest, without any other special directions to that effect.

1825.

Sec. 3. That when the Statute Laws of this Commonwealth shall be distributed, it shall be the duty of the Secretary of State, to send to each member of the General Assembly, a copy of the Journals of both Houses.

Also, the Journals of both Houses.

[Approved, January 11, 1825.]

CHAP. 127.—An ACT to add a part of Monroe to Allen county, and for other purposes.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of February next, all that part of the county of Monroe bounded as follows, to wit: Beginning at the junction of the Allen county line, to the Tennessee State line; thence with the State line to the road on the dividing ridge between Puncheon Camp and Whiteoak creeks; thence with said old road, to the ford of Big Barren river, near the mouth of Indian creek; thence a straight line, to the forks of the main road below Joseph Stephens'; thence a straight line in the direction to Fulcher's meeting-house, to the Monroe and Barren county line; thence with the said line between the said counties of Monroe and Barren, to the Allen county line; thence with said Allen county line, to the beginning, shall be and the same is hereby added to the county of Allen: *Provided, however*, that the judicial tribunals of Monroe county, shall retain jurisdiction of all cases now depending before them; and the several officers of Monroe county, may execute process in their hands, and collect all dues against them, as if this act had not passed.

Part of Monroe added to Allen, after 1st February.

Proviso.

Sec. 2. The surveyor of Monroe county shall run and plainly mark the aforesaid line between the said counties of Monroe and Allen, as directed by this act, and return a plat thereof to the clerk of the county court of each of said counties; and said surveyor shall be allowed for his services, the sum of three dollars and fifty cents per day, whilst engaged in running and marking said line, and returning said plats to said counties, and also, the sum of four dollars and fifty cents per day, to hire and defray the expences of two chain-carriers and marker; which sum shall be paid out of the county levy of Allen county.

Surveyor of Monroe to run and mark line.

His compensation.

Sec. 3. *Be it further enacted*, That hereafter, the line first run, commonly called and known by the name of

1825.

M'Millen's line
to be perma-
nent line be-
tween Monroe
and Cumber-
land counties.

Proviso.

Duty of sheriff
of Cumber-
land.

M'Millen's line, shall be and the same is hereby established the permanent line between the counties of Monroe and Cumberland, excluding, however, from the county of Monroe, and including in the county of Cumberland, the tracts of land on which William Taylor and William Trice now reside: *Provided, however,* that the judicial tribunals of Cumberland county, shall retain jurisdiction of all causes now depending before them; and the sheriff and all other officers of said county, may execute any process that may be in their hands on the first day of March next, issued by any court or justice of the peace.

Sec. 4. *Be it further enacted,* That the sheriff of Cumberland county, shall collect and account for all taxes in that part of the county of Cumberland added to Monroe, in the same manner as though this act had not passed.

[Approved, January 11, 1825.]

CHAP. 129.—An ACT to authorize John Bartlett and his associates to build a Bridge over Main Elkhorn, in Franklin county.

Company may
build bridge. Sec. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That John Bartlett, sen. John Crutcher and James I. Miles, with such others as may associate with them for that purpose, be, and they are hereby authorized to build a bridge across Main Elkhorn, at or near the Cedar ford, on the road leading from Frankfort to Owenton.

Time to com-
plete same.

Sec. 2. *Be it further enacted,* That the said Bartlett, Crutcher, Miles, and their associates, shall have one year from and after the first day of June next, to enable them to complete said bridge, and when finished, they shall be entitled to demand and receive the following tolls, for passing the same, to wit:

Tolls.

For every man or woman, child of five years old and upwards,	6 1-4 cts.
Horse, mare, colt, jack, jenny or mule,	6 1-4
Wagon and team,	50
Cart and team,	25
Riding carriage, with four wheels,	75
Riding carriage, with two wheels,	37 1-2.

Who shall be
exempt from
paying toll.

Sec. 3. *Be it further enacted,* That the citizens of Franklin county, who necessarily have to pass said bridge in attending musters, military training, elections and courts, shall be exempt from paying tolls on such occasions,

Sec. 4. *Be it further enacted*, That the said Bartlett, Crutcher, Miles, and their associates, and all and every person or persons, who may become the owners or keepers of said bridge, shall be subject to such alterations, restrictions and limitations, as the General Assembly, from time to time, may think proper to make herein, and hereby reserve to themselves the right of repealing this act, if, in their opinion, the general good requires it, or will be promoted thereby.

1825.

Subject to control of Legislature.

Sec. 5. *Be it further enacted*, That if the owner or owners of said bridge, shall suffer the same to go to decay, so as to render it unsafe for passengers, for the space of six months at any one time, then and in that case, all and every right herein, shall cease and determine.

How to be forfeited.

Sec. 6. *And be it further enacted*, That the tolls here-in receivable, shall be in Commonwealth's Bank paper, so long as said paper is receivable in taxes.

Currency to be received.

[Approved, January 11, 1825.]

CHAP. 129.—An ACT to establish an election precinct in the county of Bourbon.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That all that part of the county of Bourbon included within the following bounds, to wit: Beginning on Hinkston (which is the county line) at the mouth of Clear creek; thence up Clear creek so far, that a line will include the farm of Melokiah Couchman, deceased; thence a direct line, to include the farm of Jesse Bowles; thence a direct line, to include the farm of John Payne, formerly owned by David Bowles; thence a direct line, to the intersection of the road leading from M'Cormick's mill, on Stoner, with the Upper Blue Lick road; thence with the road leading to Jacky S. Hitt's, until it intersects the Limestone road; thence, including the farm of the said Hitt, and with the private passway leading from Hitt's to Steele's road; thence with Steele's road to Hinkston, at the mouth of Steele's run; thence up Steele's run, to the county line; thence with the county line, to the mouth of the Brushy fork; thence up Hinkston, to the beginning, shall be an election precinct in the county of Bourbon; and that the election be held at the house, in the town of Millersburg, occupied, at this time, by John Holladay.

Bounds of precinct.

Sec. 2. *And be it further enacted*, That the county court of Bourbon, at the time of appointing judges and

County court to appoint

1825.

judges and
clerk.

a clerk to conduct the election at the court-house, appoint judges and a clerk to conduct the election in said precinct; and if the judges or clerk fail to act, the vacancy shall be filled in the manner prescribed by law in similar cases.

Sheriff or his
deputy to at-
tend the elec-
tions.

Sec. 3. *And be it further enacted*, That the sheriff of the county aforesaid, shall, by himself or deputy, attend the election in said precinct, and shall conduct the same according to law; and he shall meet at the court-house on the Saturday succeeding the close of the election, and compare the polls according to law.

[Approved, January 11, 1825.]

CHAP. 130.—An ACT to change the place of voting in an election precinct in Nicholas county.

Elections,
where to be
held.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the elections authorized by law to be held at the house of George Feilder, in the election precinct north of Licking river, in Nicholas county, shall hereafter be held at the house of David Ballingall, at the Lower Blue Licks, any law to the contrary notwithstanding.

[Approved, January 11, 1825.]

CHAP. 131.—An ACT allowing an additional Constable for the counties of Logan and Warren.

To Logan.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be allowed to the county of Logan one additional constable, who shall reside in the town of Russellville; and that the county court shall, at their February or March term next, proceed to make such appointment agreeably to law.

To Warren.

Sec. 2. *And be it further enacted*, That there shall be an additional constable in Warren county, to reside in the neighborhood of Robert W. Raglin.

[Approved, January 11, 1825.]

CHAP. 132.—An ACT to amend an act entitled "an act providing for copying certain records in the Surveyor's office in Fayette county," and for other purposes.

Preamble.

WHEREAS by an act approved December 6th, 1822, the surveyor of Fayette county was directed to copy certain books in his office, the compensation for the same being left blank: For remedy whereof,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be allowed and paid to said surveyor, twelve and one half cents for each plat, one and a half cent for every twenty words and figures in the certificates of survey, and two dollars per day for examining and comparing said plats and certificates of survey, and two cents for each alphabet, including the name, quantity, water-course, &c. in both entry and survey copied by him.

1825.

Surveyor's allowance.

Sec. 2. *Be it further enacted*, That for the surveyor aforesaid, upon his producing the certificate of the county court of Fayette county, as provided for by the third section of said recited act, the Auditor of public accounts is hereby authorized and directed, to issue his warrant upon the Treasury for the amount.

How to be paid.

Sec. 3. *Be it further enacted*, That the further time of one year, from and after the passage of this act, be and the same is hereby allowed to the surveyor of Harlan county, to avail himself of the provisions of an act entitled "an act to authorize the surveyors of Harlan and Jefferson counties, to transcribe certain books in their offices," approved January the 5th, 1824.

Surveyor of Harlan may avail himself of the provisions of a certain act.

Whereas it would be of great convenience to the people of Spencer county, that the surveyor of that county, should have a correct transcript of all the entries and surveys which lie within that county; the original entries and surveys are to be found in part in the Register's office, the surveyors' offices of Jefferson, Nelson, Shelby and Bullitt: To remedy that inconvenience,

Preamble:

Sec. 4. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the surveyor of Spencer is hereby authorized to obtain from the offices above stated, copies of all the entries and surveys for land in said county, and have the same entered in a book neatly bound; and upon the said surveyor obtaining from the keeper of those offices [a certificate] that all the copies of entries and surveys, taken from their offices respectively, are copies from the originals in their office, and that the copies are true and perfect, the said surveyor of Spencer county shall, by the county court of that county, be paid out of the county levy, be allowed four cents for each entry, and eight cents for each survey.

Surveyor of Spencer to obtain copies of entries, &c.

How to be paid.

[Approved, January 11, 1825.]

1825.

CHAP. 133.—An ACT to incorporate the Greensburg Bridge Company.

Preamble.

WHEREAS it is represented to the present General Assembly, that the erection of a bridge across Green river, at or near the south end of said town of Greensburg, in the county of Green, will be of great public utility, and that the same may be undertaken by a company of individuals, and it is thought advisable to grant an act of incorporation to effectuate the object aforesaid: Wherefore,

May raise money by subscription.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That for the purpose of erecting said bridge, it shall be lawful to raise, by subscription, any sum not exceeding thirty thousand dollars, to be composed of shares of one hundred dollars each.

Directors appointed.

Sec. 2. *Be it further enacted*, That Joseph Akin, Richard A. Buckner, Peter B. Atwood, Henry Saunders, John Motley, Elijah Creel, William Miller and James Murry, be, and they are hereby appointed directors of the company, until a meeting of the subscribers and stockholders shall otherwise direct and appoint.

Style of the company.

Sec. 3. *And be it further enacted*, That the subscribers of said stock, their legal representatives, successors and assigns, shall be, and they are hereby constituted and made a body politic and corporate, to be called and known by the name and style of "the President and Directors of the Greensburg Bridge Company," and by that name may sue and be sued, implead and be impleaded, and may do and suffer all acts and things which a body corporate may do and suffer, and may have a common seal, and the same may alter and change at pleasure, and also, ordain, establish and put in execution such by-laws, ordinances and regulations as to them shall seem necessary and convenient for the government and well-being of the said corporation, and for carrying into effect the object of their institution, not being contrary to the laws and constitution of this Commonwealth; and generally, may do, execute and perform all and singular such acts, matters and things as to them shall or may appertain. And the persons before named in the second section of this act, and their successors in office, shall, by the name and style of the President and Directors of the Greensburg Bridge Company, do and perform all the duties and acts which may belong to, and be performed by the said corporation, until successors may be duly appointed according to the provisions of this act.

Their privileges and powers.

1825.

Sec. 4. *And be it further enacted*, That the said persons, or a majority of them, so named in the said second section of this act, shall assemble in Greensburg, and shall appoint one of their own body as President, and such other officers or agents as may be deemed necessary, and may from time to time fill up any vacancy which may happen in their own body, by refusal to act, death, resignation, removal out of the county, or otherwise; and the same power of appointment and filling vacancies, shall and may be exercised by the President and Directors appointed by the stockholders; and the President and Directors shall at all times keep and preserve a fair record of all their proceedings, subject to the inspection of any person interested therein. And the said corporation shall have power, and be able and capable of taking the capital stock of said company, and the increase and profits thereof, and also such lands, tenements and buildings, as shall and may be necessary for carrying their plan into complete operation, and may make all contracts and bargains necessary for carrying the work into effect.

May appoint a president and other officers.

Duties of the president and directors.

Sec. 5. *And be it further enacted*, That the President and four Directors shall be a quorum to do business; and on failure of the attendance of the President, the Directors, being five in number, shall choose a President of their own body *pro tempore*; and all the acts and by-laws of said corporation shall be fairly entered in a book or books provided for that purpose, and be signed by the President for the time being.

What number shall constitute a quorum.

Sec. 6. *And be it further enacted*, That the said President and Directors shall and may open subscriptions to raise the said bridge stock, and which subscriptions shall be in substance as follows, to wit: "We whose names are hereto subscribed, promise to pay to the President and Directors of the Greensburg Bridge Company, the sum of ——— dollars, for ——— shares of the Greensburg Bridge stock, set opposite our respective names, by us subscribed, payable the ——— day of ——— 18—; witness our hands." Which shall be plainly subscribed by every person subscribing for said stock, with the date of said subscription affixed.

Form of subscription.

Sec. 7. *And be it further enacted*, That as soon as fifty shares shall be subscribed for, the subscribers holding the stock subscribed, may assemble and elect eight persons to act as President and Directors of the said company; which election may be conducted by the subscribers, or a majority of them, in such manner as they

President and directors, how elected.

1825.

Who shall
vote, and the
number of
votes.

may prescribe. The votes may be given, at all their meetings, by ballot, by the shareholders in person or by proxy, the proxy having previously obtained a written power. Each shareholder shall be entitled to a vote for every share he may possess, but shall give all his votes at once. The eight highest on the polls shall be declared elected; and in case two or more of them have an equal number of votes, it shall be decided by lot, immediately, by the persons conducting the election, which of the two shall serve. The President and Directors shall continue in office until others be duly appointed as successors.

To have an an-
nual meeting.

Sec. 8. *And be it further enacted,* That the said company shall have an annual meeting on the first Monday in the month of March, and at such other times as may be directed by the by-laws, for the purpose of choosing a President and Directors, and for the transaction of such other business as appertains to the nature and object of the institution. A meeting may be called at any time, by a majority of the Directors, or by one third of the members of the company, or by the proprietors of one third of the shares: *Provided,* that no called meeting be legal or valid, or capable of transacting business, unless a majority of the members of said company, or of the proprietors of at least two-thirds of the shares.

A meeting may
be called.

Shares may be
transferred, &
how.

Sec. 9. *And be it further enacted,* That the shares in the said company shall be considered personal estate, and shall be transferable by assignment in writing, to be executed, authenticated and registered as the said company may prescribe and direct in their by-laws.

May build a
bridge, and
where.

Sec. 10. *And be it further enacted,* That the said corporation is hereby authorised and empowered to erect and build, or cause to be erected and built over Green river, at or near the south end of the town of Greensburg, at such point as the President and Directors may select, a good and sufficient bridge, adequate for the passage of travellers, carriages, horses and cattle: *Provided,* that the piers or pillars in the river shall be sufficiently distant from each other to admit the passage of boats between, and said piers or pillars shall not be less than forty-five feet high, from their foundation.

Provide.

Tolls.

Sec. 11. *And be it further enacted,* That so soon as said bridge shall be completed and made passable, the said corporation shall be authorised to demand and receive, by their proper agents, servants or officers, in

the currency of this State, the following tolls for passing said bridge, to wit:		1825.
	Cents.	
For every person above the age of 7 years old,	6	1-4
For every horse, mare, colt or mule,	6	1-4
For every wagon and team,	50	
For every cart and team,	37	1-2
For every riding carriage with four wheels and two horses,	50	
For every riding carriage with two wheels and one horse,	37	1-2
For every head of neat cattle,	2	
For every head of goats, sheep or hogs,	1	
For every hogshhead of tobacco rolled or carried across, not being in a wagon or cart,	25	
For every dray, sleigh or slide,	25	

Provided, that the following persons shall pass free of toll, on the following occasions, to wit: All public messengers and expresses, and the citizens of Green county resident on the south side of the said river, on the several days of election of members of the Legislature of this State. Proviso.

Sec. 12. *And be it further enacted*, That the said corporation shall keep posted up on some conspicuous part of said bridge, or where the tolls are collected, a printed list of the tolls allowed by law, under the penalty of one dollar for each day's neglect of such duty. Rates of toll to be posted up.

Sec. 13. *And be it further enacted*, That the President and Directors of said company shall cause to be made among the shareholders, yearly, a dividend of the profits of said stock, such as the said President and Directors may deem proper, or a majority of shareholders may direct. Profits to be divided annually

Sec. 14. *And be it further enacted*, That the said corporation shall, during the seasons suitable to the navigation of said river, keep the space between the piers clear of all driftwood calculated to obstruct the passage of boats. Further duties of said corporation.

Sec. 15. *And be it further enacted*, That it shall and may be lawful for the President and Directors of the said company to open and obtain subscriptions for the purpose of creating and obtaining means of opening and improving, with bridges and causeways, and otherwise, the roads in said county leading to and from the place which may be selected for said bridge. May obtain subscriptions to improve roads.

This act shall commence and be in force from and after the passage thereof.

[Approved, January 11, 1825.]

1825.

CHAP. 134.—An ACT for the benefit of Susan Schofield.

Preamble.

WHEREAS it is represented to this General Assembly, that Jesse Schofield, of Butler county, is now old, infirm, and very poor; that he has served in the revolutionary army, and is settled on a head-right claim of two hundred acres of land, which he is wholly unable to pay the State price for, and is therefore likely to lose his labor in improving the same: Therefore,

Register to issue a patent.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That upon the said Schofield's filing with the Register a plat and certificate of survey for the said two hundred acres, upon a Logan county court certificate, No. 787, he shall issue a patent to Susan Schofield, for the same, without the payment of the State price thereon, as in other cases.

[Approved, January 11, 1825.]

CHAP. 135.—An ACT for the benefit of the heirs of Joshua Wilson.

Recital.

WHEREAS it is represented that Joshua Wilson, formerly of Jefferson county, departed this life possessed of various tracts of land and town lots in the State of Kentucky, leaving a widow and five heirs, two of whom are infants, and not leaving assets sufficient for the payment of all his debts; in consequence whereof, it is apprehended that said lands and lots will be subjected to great loss, and perhaps eventual ruin, unless provision be made by law for the application of a portion of it to the payment of said debts, without coercive sale by execution: Wherefore,

Jefferson circuit court may decree a sale of real estate.

Sec. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the circuit court of Jefferson county, sitting in chancery, shall have power, on the joint application of the widow and heirs of the said Joshua Wilson, deceased, (the infant heirs by their guardian *ad litem*, to be appointed as hereinafter directed,) to decree the sale of so much of said lands and lots in the State of Kentucky, as he shall deem necessary for the payment of debts due, and which may hereafter become due against said estate, on such terms and in such mode as he may consider most conducive to the interest of the personal and real representatives of said decedent, and direct the proceeds of such sale to be paid over to the persons properly authorised to receive the same, on their acknowledging in open court, a bond with approved security, in the pen-

alty of at least double the amount of sale, payable to the aforesaid heirs, with a condition that they will faithfully apply to the payment of said debts, the whole amount so paid over to them; which bond shall be filed and made a part of the records of said court, for the security of said heirs.

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Sec. 2. It shall be the duty of the Judge of said court, on the application of the said infant heirs, to appoint a guardian *ad litem* for each of them, for the purpose of enabling him to execute the power vested in him by the foregoing section, whose duty it shall be, in the event of any portion of said lands or lots being sold by decree of said court, to make a legal title thereto, to the purchaser or purchasers, by deed of general warranty, in the name and on behalf of the aforesaid heirs; which deed or deeds shall vest the absolute legal title to the property thereby conveyed, in the conveyee or conveyees, free from any claim, by said heirs forever.

To appoint guardians *ad litem* for infant heirs.

Sec. 3. The said court shall have power, if it shall deem it expedient and advantageous to the interest of said heirs, to authorise their guardian *ad litem*, on his application by petition, to mortgage any portion of said lands or lots, in the name of said heirs, for the payment of such creditors as shall be willing to accept such security; which shall pass the legal title to the mortgagee or mortgagees, as effectually as if said infant heirs were adults, and had conveyed in their own names, and by their own voluntary act, any law or usage to the contrary notwithstanding.

May authorise guardian to mortgage estate.

[Approved, January 11, 1825.]

CHAP. 136.—An ACT for the benefit of Senny Boatman.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract between James Boatman and Senny Boatman, his wife, late Senny Carver, of the county of Madison, be, and the same is hereby dissolved, and the said Senny is hereby released and divorced from all further matrimonial connexion with said Boatman, and restored to all the privileges of a *feme sole*.

Divorced.

[Approved, January 11, 1825.]

1825.

CHAP. 137.—An ACT declaring the powers of the Trustees of the Town of Greenupsburg, and for other purposes.

Recital.

WHEREAS it is represented to the present General Assembly, that doubts are entertained as to the legality of the order of the county court of Greenup, appointing Thomas T. Shreve and others trustees of the town of Greenupsburg, and a respectable petition of the citizens of said town has been presented, praying that the said order of the Greenup county court be legalized, and for further powers to be given to said trustees: Therefore,

Their appointment and acts declared valid.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the said order of the Greenup county court shall be, and the same is hereby declared valid and legal, to all intents and purposes, and the acts of said trustees, done by virtue of said appointment, shall be as good and valid as though no doubts had existed in relation to the validity of their said appointment.

Act of Assembly in relation to Nicholasville, applied to Greenupsburg.

Sec. 2. That the act of Assembly entitled "an act to regulate the town of Nicholasville," approved November 18th, 1823, shall, in all respects, so far as the same is applicable, apply to the town of Greenupsburg, except that one justice of the peace, to be appointed for that purpose by the county court of Greenup, shall preside over all elections, and shall, when necessary, administer the proper oath to any person offering to vote, to ascertain his qualifications; and the clerk of the board of trustees shall be clerk of the elections, or, in case of his absence, resignation or other failure to act, the said justice so presiding may appoint a clerk of the election: *And provided further*, that no sale of any lot for the non-payment of taxes, shall be made, unless the same be made in the court-yard, on a county court day, between the hours of eleven and three o'clock of the day, nor until the same shall have been advertised on the door of the court-house of Greenup county, at least one court day of a county or circuit court, previous to such sale; and when any sale is so made, the trustees of the said town shall, upon the receipt of the purchase money, and after the expiration of two years from said sale, make to the purchaser a deed of conveyance, which shall pass all the estate, legal or equitable, of the person for whose taxes the same was sold, to the purchaser, his heirs or assigns: *And provided further*, that the owner of such lot or lots so sold, shall have the right, within two years after such sale, to redeem the

Sale of lots for non-payment of taxes.

Lots may be redeemed.

same, by paying to the trustees the amount of tax for which the same was sold, with ten per centum damages and legal interest thereon from the time of sale, which shall, by said trustees, be paid over to the purchaser, his administrators, executors or assigns; and such redemption shall be noticed and entered on the books of said trustees.

1825.

[Approved, January 11, 1825.]

CHAP. 138.—An ACT concerning the Independent Bank at Columbia.

WHEREAS it is represented to this present General Assembly, that the commissioners appointed by the stockholders of the Independent Bank of Columbia, in Adair county, have refused to act, and that the said stockholders have failed to appoint other commissioners in their stead, to adjust the business of said Bank: Therefore,

Preamble,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the circuit court of Adair county, at some term of said court after this act takes effect, upon proof of the fact that the commissioners to said Bank have refused to act, or have removed out of the county, shall proceed to appoint three fit persons commissioners to said Bank; and said court shall and may, from time to time, fill any vacancies in said board of commissioners that may happen.

Adair circuit court to appoint comm'rs.

Sec. 2. *And be it further enacted,* That the commissioners appointed by the aforesaid circuit court, shall possess all the powers given by, and subject to the provisions of an act passed the 14th day of February 1820, providing for bringing suits by and against Independent Banks.

Their powers.

[Approved, January 11, 1825.]

CHAP. 139.—An ACT for the benefit of the children of David Knox, deceased.

WHEREAS it is represented that David Knox, deceased, late of Mercer county, died possessed of certain lands which he devised to his children, which cannot be advantageously divided, and that a sale of said land would operate beneficially to said children; but that some of them being infants, a sale of said lands cannot be legally made: Therefore,

Preamble.

1825. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful for the Mercer circuit court may decree a sale of said lands, in the same manner, and subject, in all respects, to the same rules of proceedings as are now provided by law, for the sale of the real estate of infants, which has passed to them by descent.

[Approved, January 11, 1825.]

CHAP. 140.—An ACT to establish an Election Precinct in Bullitt county.

SEC. 1. BE it enacted by the General Assembly of the Commonwealth of Kentucky, That all that part of the county of Bullitt contained within the following boundary, to wit: Beginning at the mouth of Wilson's creek, on the Rolling fork; thence up said creek, to the mouth of Overal's fork; thence up said creek, to the dividing ridge between said fork and Crooked creek; thence down Crooked creek, to the Rolling fork; thence up the Rolling fork, to the beginning, shall form an election precinct; and the qualified voters shall meet at the house now occupied by Isaac Price, known by the name of the Pine Tavern, and vote at general elections; and the county court of Bullitt shall appoint judges and a clerk to said precinct, as judges and clerks in other precincts are in said county; and the sheriff or his deputy, shall attend said election precinct, and compare the polls at the same time and place of comparing them from the other precincts in said county.

Elections to be held at the Pine Tavern.

Judges & clerk to be appointed

Voters in precinct may vote at county seat.

SEC. 2. Be it further enacted, That any qualified voter within the bounds of said precinct, may have his election either to vote at said precinct or at the county seat.

[Approved, January 11, 1825.]

CHAP. 141.—An ACT to amend an act entitled "an act to amend the several laws now in force, concerning the town of Maysville, county of Mason," approved December 15th, 1823.

SEC. 1. BE it enacted by the General Assembly of the Commonwealth of Kentucky, That any person who shall hereafter exercise the business or trade of an auctioneer, or act as such in the town of Maysville, contrary to the provisions of the said act of December 15th, 1823, and without having first obtained a license therefor, as required by said act, shall be subject to a fine of five hundred dollars for every such sale at auction, to be re-

No person to exercise duties of auctioneer, in Maysville, without a license, under penalty of \$500

covered by suit before any court of competent jurisdiction, in the name of the trustees of said town, and to be appropriated by them in such manner as they are directed to appropriate moneys received for licenses to auctioneers: *Provided, however,* that the duties laid on sales at auction by said trustees, by virtue of said act, shall, at no time, or in any case, exceed two per centum on the amount of such sale or sales.

1825.

Proviso.

Sec. 2. *Be it further enacted,* That the eleventh section of said act of December 15th, 1823, granting to the trustees of the town of Maysville, a ferry across the Ohio river, be and the same is hereby repealed.

Law granting a ferry over the Ohio river, repealed.

[Approved, January 11, 1825.]

CHAP. 142.—An ACT to legalize the proceedings of the Trustees of the town of West-Liberty.

WHEREAS it is represented to the present General Assembly, that the trustees of the town of West-Liberty, in the county of Morgan, in laying off said town, included a certain boundary as containing a certain number of acres for said town; but upon accurate admeasurement, the same is found to contain ten and three-fourths acres more than it was supposed to contain, and more than the said trustees had recorded it as containing; and doubts have arisen whether the said trustees, or their successors, have the power of re-establishing the said town, and of correcting any and all errors that may have existed, and which are noticed by them as facts: For remedy whereof,

Preamble.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said trustees or their successors in office, shall have full power to correct all such mistakes, and to have a re-survey of said town and of the lots within the same, and may make a new plat thereof, and cause the same to be recorded as an original; but in all their doings, said trustees shall respect the rights of those who purchased under the former plan of said town; and the trustees may proceed to sell any lot or lots not sold under the former plan of said town, under the same rules and regulations as though the plan they have heretofore made, had not been made, and may include and dispose of the said ten and three fourths acres of ground, in town lots.

Trustees may make a re-survey of town, &c.

May sell lots.

[Approved, January 11, 1825.]

T

1825.

CHAP. 143.—An ACT for the benefit of the Union Rolling Mill Company.

\$375 90 to be
paid said com-
pany out of the
Treasury.

Proviso.

Proviso.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of public accounts be, and he is hereby directed to issue a warrant on the Treasurer in favor of the Union Rolling Mill Company, for the sum of three hundred seventy-five dollars and ninety cents, in full of their account for iron furnished the Penitentiary institution; which said sum of money, shall be paid in specie, out of any fund in the Treasury not otherwise appropriated: *Provided, however,* that the Treasurer be and he is hereby authorized to pay the same in notes of the Bank of the Commonwealth of Kentucky, at a fair exchange, not exceeding two for one: *Provided,* the note executed by the Keeper of the institution, for and on behalf of the State, for such sum, on the 2d day of May, 1823, due sixty days after date, be delivered to the Auditor of public accounts, to be cancelled at the time the money is drawn.

[Approved, January 11, 1825.]

CHAP. 144.—An ACT for the benefit of Marcus Huling and others.

Further time to
avail them-
selves of the
benefit of a cer-
tain act.

Proviso.

Further provi-
so.

SEC. 1. BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the further time of two years be given to Marcus Huling, Peter Simmerman and Andrew Erwin, to avail themselves of all the benefits and privileges of an act of the General Assembly, entitled "an act for the benefit of Peter Simmerman, Andrew Erwin and Matthew Huling," approved February 4th, 1818: *Provided, however,* that the indulgence given by this act, shall not extend to any lands which the said Simmerman, Erwin and Huling have surveyed in the counties of Wayne and Pulaski: *Provided, nevertheless,* that the said Marcus Huling, Andrew Erwin and Peter Simmerman, are hereby authorized to survey and lay off three thousand acres of vacant and unappropriated land, adjoining or within three miles of a seven hundred and twenty-seven acre survey, which they hold in partnership with Martin Beaty, lying on the big south fork of Cumberland river, by their paying into the Treasury of this Commonwealth, within two years from the passage of this act, the sum of ten dollars for every hundred acres surveyed by them by virtue of this act; which surveys, so made, shall not contain less than five hundred acres each, and their length not to exceed twice their breadth: *And provided also,* that the said

Erwin and Simmerman shall, within twelve months from the passage of this act, cause to be surveyed the aforesaid three thousand acres, and return to the Register of the land-office the plats and certificates of surveys made, within one year from the passage of this act, who shall issue patents thereon as in other cases.

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Sec. 2: *Be it further enacted*, That the price heretofore fixed, on so much of the aforesaid grant of lands as was surveyed by the said Huling, Erwin and Simmerman, in the county of Adair, be reduced to ten dollars per each hundred acres.

Price heretofore fixed, reduced to \$10 per 100 acres.

[Approved, January 11, 1825.]

CHAP. 145.—An ACT to amend the act establishing the town of Lebanon, in Washington county.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter in all elections of trustees in and for the town of Lebanon, in Washington county, in addition to the holders of lots in said town, all free white males over twenty-one years of age, who are citizens of said town, shall be entitled to vote for trustees in and for said town; and the trustees of said town, shall have full power and authority to lay and collect an *ad valorem* tax on the real and personal property in said town, as also a capitation tax: *Provided, however*, said *ad valorem* and capitation tax, shall not, in any year, exceed the sum of one hundred dollars.

Who may vote for trustees.

Trustees may levy an *ad valorem* and capitation tax.

Proviso.

[Approved, January 11, 1825.]

CHAP. 146.—An ACT to change the place of taking votes in the southern precinct in Barren county.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, the elections in the election precinct in Barren county, heretofore directed to be holden at the house of Thomas Flippin, shall be holden at the house now occupied by Isaac Tracey, in said county of Barren, instead of at the house of said Flippin, and shall be called the Tracey precinct; and any of the qualified voters of said county, may vote at the said precinct, and any qualified voter of said precinct, within the said county of Barren, may vote at any other place of holding elections in said county; and the county court of Barren shall appoint judges and a clerk to elections

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in said precinct, as in other cases; and the sheriff, by himself and deputies, shall attend elections holden in said precinct.

[Approved, January 11, 1825.]

CHAP. 147.—An ACT for the benefit of Thomas Stroud.

Preamble.

WHEREAS it is represented to this General Assembly, that Thomas Stroud, of Butler county, is settled on a tract of one hundred and fifty-two acres of land, located by virtue of a commissioners' certificate, number 2,906, granted to the said Stroud in the year 1798, (then Logan county); that he has served as a soldier in the army of General Wayne; that he is now old and extremely poor, and wholly unable to pay the balance of the State price due on said land:

Register to issue a patent.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That upon the said Stroud's filing with the Register a plat and certificate of survey for said one hundred and fifty-two acres, he shall issue a patent for the same, as in other cases, without the payment of the balance due thereon.

[Approved, January 11, 1825.]

CHAP. 148.—An ACT for the benefit of the sheriff of Monroe county.

Further time to pay revenue.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the sheriff of Monroe county be, and he is hereby allowed the further time of until the first day of May next, to pay into the Treasury fifty-nine dollars and eighty-three cents, on account of the revenue tax of said county, for the year 1823.

[Approved, January 11, 1825.]

CHAP. 149.—An ACT for the benefit of Andrew Mershon.

Recital.

WHEREAS it is represented to the present General Assembly of the Commonwealth of Kentucky, that Andrew Mershon now stands indicted, in the county of Garrard, for felony, and is recognized to appear for trial at the next March term of said Garrard circuit court, and that owing to great prejudice against said Mershon, in said county, he cannot have therein an impartial trial: For remedy whereof,

Sec. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That upon the calling said

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indictment, and upon the appearance of said Mershon, in discharge of his recognizance, at the next March term of said Garrard circuit court, it shall and may be lawful for him to elect whether he will be tried on said indictment in the county of Garrard or in the county of Madison; and should he thereupon elect to be tried in said county of Garrard, then and in that event, the trial shall proceed, in all respects, as though this act had not passed.

May elect to be tried in the Madison circuit court, &c.

Sec. 2. *Be it further enacted*, That in the event said Mershon should elect, upon his appearance and surrender in discharge of his recognizance aforesaid, at the bar of the Garrard circuit court, to be tried in the county of Madison, then and in that case, it shall be the duty of the sheriff of said county of Garrard, forthwith, under a sufficient guard, to convey said Andrew Mershon from said county of Garrard, to the jail of the county of Madison, and then and there deliver said Mershon to the jailer of Madison county, taking his receipt therefor, which the said sheriff shall return as soon thereafter as practicable, to the clerk of the Garrard circuit court, which the said clerk is hereby required to record, and to file the same among the papers of said indictment, there to be safely kept: *Provided, nevertheless*, that upon the election of said Mershon, as aforesaid, to be tried in the county of Madison, it shall and may be lawful for the Judge of said Garrard circuit court, to admit said Mershon to bail, as in other cases, for his appearance on the first day of the next Madison circuit court, then and there to surrender himself in custody to said court.

Upon so electing, to be conveyed under a guard to the jail of said county, &c.

Sec. 3. *Be it further enacted*, That upon said Mershon's electing to be tried as aforesaid, in the county of Madison, and upon the sheriff's returning to said clerk the certificate or receipt aforesaid, or upon said Mershon's entering into a recognizance, in such sum and with such security as the Judge of said Garrard circuit court direct and approve, for his appearance on the first day of the next term of the Madison circuit court, it shall be the duty of the clerk of the Garrard circuit court, forthwith to make out a complete transcript of the record against the said Mershon, upon the indictment aforesaid, including said recognizance, to certify the same officially, and deliver the same to the sheriff of said county of Garrard, whose duty it shall be to convey the same, without delay, to the clerk of the Madison circuit court, who shall, upon the receipt thereof, give to said sheriff

Clerk of Garrard to certify, and sheriff to deliver the papers, &c. to the Clerk of Madison.

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a receipt therefor; which receipt, the sheriff shall, in like manner, return to the clerk of the Garrard circuit court, whereupon the clerk of said court is required to record the same in his office.

Clerk of Madison to issue subpoenas, &c.

Sec. 4. That the clerk of the aforesaid county of Madison, after having received the aforesaid record from the clerk of the Garrard circuit court, shall have the same power to issue a *venire facias*, subpoenas, attachments and all other process which may then or thereafter become necessary, for or on the trial of said indictment, in the same manner as if the offence with which said Mershon stands charged, had been committed in said county of Madison, and as though the original proceedings had been commenced against said Mershon in the Madison circuit court.

Madison circuit court invested with power to try said cause, &c.

Sec. 5. That the Judge of the said Madison circuit court shall, upon the calling of said indictment, at the first term of his court after the said Mershon shall have been conveyed, as aforesaid, to the jail of Madison county, or shall have been recognized to appear, as aforesaid, at the Madison circuit court, and thereafter until a fair and final trial shall be had upon said indictment, take cognizance of the same, and proceed to try said indictment, or make such order therein as may be necessary to a trial thereof, with as full and ample jurisdiction over the same, as if said offence had been committed in said county of Madison, and the indictment aforesaid had originated in the circuit court for said county; and upon the trial thereof, he shall award judgment and have the same executed, provided said indictment should eventuate in the conviction of said Mershon: *And provided also*, that said Judge shall have the same jurisdiction over said cause, should said Mershon fail to appear in discharge of his recognizance aforesaid, as he would or could have had, had said offence been committed in the county of Madison: *And provided also*, that in case of any informality in said indictment, a new indictment may be found in the county of Madison; and that the Judge of said Madison circuit court shall, in all respects, have the same jurisdiction of said cause, as if the offence had been committed in the county of Madison.

Proviso.

Further proviso.

[Approved, January 11, 1825.]

CHAP. 150.—An ACT for the benefit of the widow of George Threlkeld, deceased.

1825.

WHEREAS it is represented to the present General Assembly, that George Threlkeld, deceased, acted as a commissioner for viewing a road from Frankfort to Augusta, in this State, and was engaged ten days in the discharge of that duty, and has not been paid for his services: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for the Auditor of public accounts, to issue his warrant on the Treasurer in favor of the widow of said Threlkeld, for the sum of twenty dollars, in payment for said services.

Auditor to issue warrant on Treasurer for \$20.

[Approved, January 11, 1825.]

CHAP. 151.—An ACT to authorize the Keeper of the upper turnpike gate, on the road from Georgetown to Cincinnati, to remove the same.

WHEREAS it is represented to the present General Assembly, that the owner of the upper turnpike gate, on the road from Georgetown to Cincinnati, is desirous to move said gate: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said keeper may remove his gate to any point he may think proper, so as to confine it within three miles of big Eagle creek; and he shall be entitled to all the tolls and privileges that he is now allowed by law.

Keeper may remove gate.

[Approved, January 11, 1825.]

CHAP. 152.—An ACT to amend an act to establish the town of Waidborough, in the county of Calloway, and to provide for the sale of lots.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the trustees for the town of Waidborough be, and they are hereby authorized to sell at public auction, for ready money, giving one month's previous notice in the Kentucky Republican, printed at Hopkinsville, all the unsold lots in said town, except such as have been heretofore set apart for public uses: *Provided, however,* no lot shall be sold for a less sum than ten dollars.

Trustees to sell lots.

Provide.

SEC. 2. *And be it further enacted,* That the trustees, in making sales as aforesaid, shall be regulated by the rules prescribed by the above recited act; and that the

25 per cent. on sales to be applied to erect-

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ing public
buildings.

treasurer of the town of Waidsborough, shall pay over to the county court of Calloway county, twenty-five per cent. on all the money by him received under this act, to be by them applied towards defraying the expences of their public buildings.

Lot to be set
apart for a bury-
ing ground.

Sec. 3. *And be it further enacted*, That the trustees of said town may designate and set apart a lot for the use of a burying ground, in such situation as to them shall seem most eligible for that purpose.

[Approved, January 11, 1825.]

CHAP. 153.—An ACT to establish election precincts in the counties of Grayson and M'Cracken.

Bounds of pre-
cinct in M'-
Cracken.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That all that part of M'Cracken county, lying in the following bounds, be erected into an election precinct: Beginning at the mouth of Mayfield creek, running up said creek, to the mouth of the west fork; thence a straight line to the house of David Deal; thence a straight line to Isaac Newton's; thence, north, to the Ohio river and down the same to the Mississippi, to the beginning; and that the election for the said precinct be held at the house of Solomon Redferen.

In Grayson.

Sec. 2. *And be it further enacted*, That all that part of Grayson county included in the following bounds, be established into an election precinct, to wit: Beginning at the mouth of Bear creek; thence up Green river, to the mouth of Nolin; thence up the same, to the mouth of Connolaway; thence a straight line, to the Butler county line, on the dividing ridge between the heads of Caney, Reedy and Welsh's creeks; thence along the Butler county line, to the beginning; and that the elections in said precinct be held at the house of John M. Durben. And the county courts of M'Cracken and Grayson, shall appoint judges and other offices to superintend the elections to be held at said precincts, who shall be governed by the laws now in force regulating elections; and the sheriffs superintending said elections, shall meet at their respective court-houses, on Thursday next after the commencement of their elections, for the purpose of comparing polls and making a complete return of the person or persons elected in their respective counties.

County courts
to appoint offi-
cers to conduct
elections.

Sheriffs, when
and where to
compare polls.

[Approved, January 11, 1825.]

CHAP. 154.—An ACT for the benefit of the Judge of the tenth judicial district. 1825.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That in addition to the time now allowed by the act entitled "an act to compel the Circuit Judges of this Commonwealth to remove into, and reside in their respective circuits," the further time of one year be, and the same is hereby given to the Judge of the tenth judicial district, to move into, and reside in the same.

Allowed one year to remove into his district.

[Approved, January 11, 1825.]

CHAP. 155.—An ACT to change the place of voting in the Maxville Precinct in the County of Washington.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the qualified voters of the county of Washington, residing within the bounds of the Maxville precinct, shall hereafter, at each election, vote at the house of Walter Newton in the town of Maxville, instead of the house of Stephen Crim, under the same rules and regulations as are prescribed by the act establishing said precinct.

[Approved, January 11, 1825.]

CHAP. 156.—An ACT for the benefit of the heirs of William Warren, deceased.

WHEREAS it is represented to the present General Assembly, that William Warren died possessed of several tracts of land in the county of Scott, and was, at the time of his death, considerably in debt, and that it would be to the advantage of his heirs, that a part of said land should be sold to pay said debts: Wherefore,

Preamble.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for the circuit court of Scott county, in its chancery character, upon the petition of said heirs, (the infants by their guardian,) for that purpose, to order and decree a sale of said tracts of land, or parts thereof, sufficient to satisfy and discharge said debts, under such restrictions and modifications as may be most conducive to the interest of said heirs; and the said court is hereby vested with power and authority to appoint commissioners to sell and convey said land, according to the decree of said court.

Circuit court of Scott authorized to decree a sale of their real estate.

[Approved, January 11, 1825.]

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CHAP. 157.—An ACT to authorize the Auditor to come to a settlement with the Keeper of the Penitentiary.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of public accounts be, and he is hereby directed to come to a settlement with the present Keeper of the Penitentiary, on the first day of February next, or so soon thereafter as may be practicable; and if, on settlement, there should appear a sum to be due to the State from said Keeper, it shall be the duty of said Keeper, within five days thereafter, to pay said sum into the public Treasury, and take the Treasurer's receipt for the same, which receipt shall be by him filed with the Auditor; but if said Keeper should fail to pay over said sum in the above mentioned time, it shall be the duty of the Auditor to certify the same to the Attorney-General, whose duty it shall be to institute suit against said Keeper and his securities, for the same. But if, on said settlement, there should any thing be due said Keeper, it shall be the duty of the Auditor to issue his warrant on the Treasury, in favor of said Keeper, for the same.

[Approved, January 11, 1825.]

CHAP. 158.—An ACT concerning Answers in Chancery.

Mode of authenticating,
by persons out
of the State.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter, whenever it may become necessary for any person or persons who may be out of this State, to make out and file an answer in chancery, in any cause depending in any of the courts of this Commonwealth, it shall be sufficient for such person or persons to make the necessary oath to such answer, before any judge or justice of the peace, notary public, mayor or alderman of any city, town or corporation, in any State or Territory of the United States; and such answer, certified by any such judge, justice of the peace, notary public, mayor or alderman, to have been sworn to, and that the person so certifying was at the time of any of the characters aforesaid, shall be permitted to be filed, and shall have the same effect as if the same had been sworn to in court, or before any officer of the State having power and authority to administer an oath and certify such answer.

[Approved, January 11, 1825.]

CHAP. 159.—An ACT to amend the act concerning the Directors of the Bank of Kentucky.

1825.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That four Directors of the Bank of Kentucky shall constitute a board for the transaction of business, of whom the President shall always be one, except in cases of sickness or necessary absence, in which case his place may be supplied by any other Director who shall be chosen President *pro tem.* at a meeting wherein four or more Directors shall be present.

Four Directors to constitute a board.

Sec. 2. *Be it further enacted,* That so much of the second section of the act entitled "an act to amend and extend the charter of the Bank of Kentucky," approved December 26, 1820, as declares that not more than two-thirds of the Directors who are in office at the time of an annual election, shall be elected for the next succeeding year, and that no Director shall hold his office more than three years out of four in succession, shall be, and the same is hereby repealed.

Part of a former act repealed.

[Approved, January 11, 1825.]

CHAP. 160.—An ACT for the benefit of the widow and devisees of Leratte Dickerson, deceased.

WHEREAS it is represented to the present General Assembly, that in the year 1813, Leratte Dickerson, late of the county of Bourbon, departed this life, after having first made his last will and testament in writing, by which he gave and bequeathed unto his wife, Elizabeth Dickerson, all his real and personal estate, to be held by the said Elizabeth for and during her natural life, and at her death to pass to, and be equally divided amongst his children, to wit, Nancy, Sally, Zadock, Nathan, Deborah, Susanna, Isaac and Daniel Dickerson; and it is further represented, that the said Nancy has intermarried with a certain Joseph Paxton, the said Deborah has intermarried with a certain John Stokes, the said Sally has intermarried with a certain Daniel Paxton, since which the said Sally has departed this life, leaving two infant children, all of whom, except the children of the said Sally, are of lawful age; and it further appearing that the said Elizabeth Dickerson is very old and infirm, and at present she is unable to attend to, and manage the said estate, and that she is willing that immediate division and distribution of the whole of the estate to her willed and bequeathed as

Preamble.

1825.

Circuit court of
Nicholas may
decree a sale of
their real es-
tate.

aforesaid, shall be made, reserving to herself so much thereof as may be sufficient for her support and maintenance during her natural life: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for the said Elizabeth Dickerson, the adult devisees in remainder, and the guardian of the infant children of the said Sally, to file their petition for that purpose, before the Nicholas circuit court, which court shall take jurisdiction of the same, and proceed to hear and determine the same; and if it shall appear to the satisfaction of the court, that a division or sale of the said estate would redound to the benefit of all parties interested in the same, it shall and may be lawful for said court to decree a sale or division thereof among the devisees in remainder, (making such reservations for the support of the said Elizabeth,) in as full and ample a manner as where said courts are invested with power to decree a sale or division of slaves and other estate, in cases of descent.

[Approved, January 12, 1825.]

CHAP. 161.—An ACT to regulate and curtail the jurisdiction of the General Court.

Not to take jurisdiction of
sums under 500
dollars.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter the General Court shall not take jurisdiction of any suit, cause or controversy, at law or in chancery, between non-residents and the citizens of this State, where the sum in contest is of smaller value than five hundred dollars, unless the parties shall consent and agree thereto, which consent and agreement shall be in writing, any law to the contrary notwithstanding: *Provided, however,* that nothing herein contained shall be so construed as to affect the jurisdiction of the said court over such suits or causes as are now depending before said court.

Proviso.

[Approved, January 12, 1825.]

CHAP. 162.—An ACT to amend the act entitled "an act to establish and regulate the Town of Louisa, in the County of Lawrence."

Recital.

WHEREAS it is represented to the General Assembly of the Commonwealth of Kentucky, that the trustees of the town of Louisa, have failed to sell four lots that were laid off in said town, and that they have failed to

lay off all the land into town lots, that was provided for in the act establishing the town of Louisa, they believing that a sufficient number of lots were laid off, to make a town of sufficient magnitude for that section of country; and for the purpose of enabling said trustees to sell said lots, and legalizing their proceedings,

1825.

Sec. 1. *Be it enacted by the authority aforesaid,* That said trustees are hereby authorised to proceed to make sale of said unsold lots, within nine months from the passage of this law, and that they shall be governed by the same rules and regulations, as to advertising, &c, as are provided for in the said recited act.

Trustees to sell lots.

• Sec. 2. *Be it further enacted,* That the boundary of the town of Louisa, as is now made, the plat of which is filed in the clerk's office of the Lawrence county court, shall be the established boundary of said town, in lieu of the boundary prescribed in the act to which this is an amendment,

Boundary fixed.

(Approved, January 12, 1825.)

CHAP. 163.—An ACT to amend an act entitled “an act to regulate the Town of Scottville, and for other purposes.”

WHEREAS it is represented to this General Assembly, that owing to the death and removal of the trustees of the town of Scottville, there is not a sufficient number of trustees to carry into effect the third section of an act entitled “an act for the regulation of the town of Scottville, and for other purposes,” approved January 30th, 1817:

Recital.

Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for the clerk of the board of trustees for said town, or in case there shall be no clerk, a justice of the peace, to give notice by advertisement, as required by said section; and that the said clerk and one justice of the peace, or in case of the absence of the clerk, two justices of the peace, shall superintend the election of trustees, who shall, when elected, be governed in all respects by the above recited act; and that the said trustees, so elected, shall possess the same powers as heretofore.

Clerk or justice to give notice of election of trustees.

(Approved, January 12, 1825.)

1825,

CHAP. 104.—An ACT for the benefit of the heirs of Michael Glaves, deceased.

Preamble.

WHEREAS it is represented by the administrators and guardian of the heirs of Michael Glaves, deceased, that owing to the embarrassed situation of said decedent's estate, it has become necessary that a sale should be made of the lands belonging to the same, for the purpose of paying the debts and making a final settlement: Therefore,

Circuit court of Pendleton may decree a sale of real estate.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the circuit court for the Pendleton circuit is hereby authorised, upon the application of the heirs of Michael Glaves, by petition or bill in chancery, to decree so much of the real estate of said Glaves to be sold, as will be sufficient for the payment of his debts, upon such credit as the chancellor shall deem most expedient, the proceeds of the sale to be applied to the payment of the debts, in a regular course of administration.

(Approved, January 12, 1825.)

CHAP. 165.—An ACT for the benefit of the heirs of William Baker, deceased.

Preamble.

WHEREAS it is represented to this General Assembly, that the estate of William Baker, deceased, of Logan county, is in debt, and that the goods and chattels of the estate are insufficient to pay the same; and it is further represented by the administrators, that it would be beneficial to the heirs, to authorise the sale of so much of the real estate of said decedent as will be sufficient to discharge the debts due from said estate, instead of certain slaves belonging thereto: Therefore,

Circuit court of Logan may decree a sale of real estate.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the circuit court for the Logan circuit, upon application by a bill or petition in chancery, of the heirs of William Baker, deceased, be, and the chancellor is hereby empowered to decree so much of the real estate of said Baker, deceased, to be sold, as will be sufficient for the payment of his debts; the sale to be made upon such credit as the chancellor may deem most expedient, and the proceeds to be applied in the discharge of the debts of said Baker, in a regular course of administration.

(Approved, January 12, 1825.)

CHAP. 166.—An ACT for the benefit of the heirs of Andrew Snider, deceased.

1825.

WHEREAS it is represented by the administrators of Andrew Snider, deceased, that owing to the embarrassed situation of said decedent's estate, it has become necessary that a sale should be made of the lands belonging to the same, for the purpose of paying the debts and making a final settlement: Therefore,

Preamble.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That a bill shall or may be preferred by the administrators of Andrew Snider, before the chancellor of the Nicholas circuit court, whenever they shall think proper so to do, setting forth therein the situation and extent of the estate, both real and personal, that belonged to their intestate, supported by affidavit, and the items or charges they may have against said estate in their fiduciary character. To enable them to obtain a credit therefor, the said charges must be sustained by evidence deemed competent in law, unless in cases where a settlement may have been previously made by the county court, agreeably to the laws now in force: *Provided, however,* the children or legal representatives of the said intestate shall be made defendants to said bill, who may respond by guardian, if under age, to be appointed by the said court; and if, upon full investigation, it shall appear to the said court that the estate of the said Andrew Snider is indebted, and that a sale of his real property will be conducive to the interest of said estate, the said court may order and decree a sale of said property, or so much thereof as will satisfy the debts due. The said court of chancery to decree the sale to be on such conditions as it shall think advisable, and shall make such a disposition of the moneys arising therefrom, as will meet the object of this law and the interest of the legal representatives of the said Snider.

Circuit court of Nicholas may decree a sale of real estate.

(Approved, January 12, 1825.)

CHAP. 167.—An ACT for the benefit of Henry S. Langford and others.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the guardian of Henry S. Langford, infant heir of Stephen Langford, deceased, is hereby authorised to file a petition in the circuit court for the county of Rockcastle, for the purpose of obtaining a decree authorizing the said guardian

Circuit court of Rockcastle may decree a sale of land.

1825.

to sell and convey so much of the land belonging to the said Henry S. Langford, by descent from the estate of his father, as in the opinion of said court, may be beneficial to the said infant's estate; and if the said court should be of opinion that it is necessary for the benefit of said infant's estate, that the land aforesaid, or any part thereof, should be sold to discharge any debt or debts now existing against the estate of the said Henry S. Langford, the said court may pronounce a decree authorizing the sale of said land, or part thereof, in such manner as said court may deem correct, with leave to the said guardian to apply the proceeds of said sale to the extinguishment of any debt or debts now existing, or which hereafter may exist, against the estate of said Henry S. Langford.

Preamble.

And whereas it is represented to this General Assembly, that owing to the death of the late Willis A. Lee, no return of the taxes which had been received by him as clerk of the general court and county court of Franklin, can now be made agreeable to the existing law: For remedy whereof,

A. H. Rennick
to return list of
taxes.

Sec. 2. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Alexander H. Rennick be, and he is hereby authorized to make out and return a list of taxes, which shall appear to have been received by said Lee, from the second day of November, 1823, until the decease of that officer.

Clerk of county
court to certify
the same.

Sec. 3. That upon the production of the said list of taxes by the said Rennick, to the county court of Franklin, in the month of January or February, 1825, authenticated to the satisfaction of said court, it shall be the duty of the clerk thereof, to certify the same to the Auditor of public accounts.

[Approved, January 12, 1825.]

CHAP. 163.—An ACT to change the venue in the case of Samuel Giler.

Preamble.

WHEREAS it is represented to the present General Assembly of the Commonwealth of Kentucky, that Samuel Giler is confined in the jail of Henderson county, under a charge of having murdered Elijah Walton; but that owing to the prejudices of the citizens of said county of Henderson, against said Giler, he cannot have a fair and impartial trial of said indictment: For remedy whereof,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That upon the calling of the said indictment, and upon the said Giler's being brought to the bar of the Henderson circuit court, it shall and may be lawful for him to elect whether he will be tried in the county of Henderson or in the county of Hopkins, for said charge of murder; and should he thereupon elect to be tried in the county of Henderson, aforesaid, then and in that event, the trial shall proceed, in all respects, as though this act had not passed.

1825.

May elect
where he will
be tried.

Sec. 2. *And be it further enacted,* That in the event said Giler should elect, upon his being arraigned at the bar of the Henderson circuit court, as aforesaid, to be tried in the county of Hopkins, then and in that case, it shall be the duty of the sheriff of said county of Henderson, forthwith, under a sufficient guard, to convey said Samuel Giler from the jail of the county of Henderson, to the jail of the county of Hopkins, and then and there deliver said Giler to the jailer of Hopkins county, taking his receipt therefor, which the said sheriff shall return as soon thereafter as practicable, to the clerk of the Henderson circuit court, which the said clerk is hereby required to record and file the same among the papers of said indictment, there to be safely kept.

If he elect to
be tried in
Hopkins, sher-
iff to convey
him to the jail
of said county,
&c.

Sec. 3. *And be it further enacted,* That upon said Giler's electing to be tried as aforesaid, in the county of Hopkins, and upon the sheriff's returning to said clerk the certificate or receipt aforesaid, it shall be the duty of the clerk of the Henderson circuit court, forthwith, to make out a complete transcript of the record against said Giler, upon the indictment aforesaid, to certify the same officially, and deliver the same to the sheriff of said county of Henderson, whose duty it shall be to convey the same, without delay, to the clerk of the Hopkins circuit court, who shall, upon the receipt thereof, give to said sheriff a receipt therefor; which receipt, the sheriff shall, in like manner, return to the clerk of the Henderson circuit court; whereupon the clerk of said court is required to record the same in his office.

Clerk to make
out transcript
of record.

Sec. 4. *And be it further enacted,* That the clerk of the aforesaid county of Hopkins, after having received the aforesaid record from the clerk of the Henderson circuit court, shall have the same power to issue a *venire facias*, subpœnas, attachments, and all other process which may then or thereafter become necessary on the

Circuit court of
Hopkins to
have jurisdic-
tion.

1825.

small real estate, in the said county of Nelson, leaving a widow and several children who are infants, and not leaving assets sufficient for the payment of all his debts, in consequence whereof, it is apprehended that said real estate will be subjected to great loss, and, perhaps, eventual ruin, unless provision be made by law for the application of a portion of it to the payment of said debts, without coercive sale by execution: Wherefore,

Nelson circuit-
court to decree
a sale of real
estate, &c.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the circuit court of Nelson county, sitting in chancery, shall have power, on joint application of the administrator or administratrix of the estate of the said Philip Audd, deceased, and of his heirs, by their guardian *ad litem*, (to be appointed as hereinafter directed,) to decree [a sale of] so much of said real estate, in the said county of Nelson, as he shall deem necessary for the payment of debts due, and which may hereafter become due, against said estate, on such terms and such mode as he may consider most conducive to the interest of the personal and real representatives of said decedent, and direct the proceeds of such sale, to be paid over to the said administrator or administratrix, on either or each of them acknowledging, in open court, a bond with approved security, in the penalty of at least double the amount of sale, payable to the aforesaid heirs, with a condition that they, or either of them, will faithfully apply to the payment of said debts, the whole amount so paid over to them; which bond shall be filed and made a part of the records of said court, for the security of said heirs.

To appoint a
guardian ad li-
tem for infant
heirs.

Sec. 2. It shall be the duty of the Judge of said court, on the application of the said heirs, to appoint a guardian *ad litem*, for each of them, for the purpose of enabling him to execute the powers vested in him by the foregoing section, whose duty it shall be, in the event of any portion of said estate being sold by decree of said court, to make a legal title thereto to the purchaser or purchasers, by deed of general warranty, in the name and behalf of the aforesaid heirs; which deed or deeds, shall vest the absolute legal title to the property thereby conveyed, in the conveyee or conveyees, free from any claim by said heirs forever.

[Approved, January 12, 1825.]

CHAP. 173.—An ACT in addition to an act entitled “an act authorizing certain county courts to appoint Port-Wardens, and prescribing their duties,” approved February 6, 1819.

1825.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the passage of this act, it shall and may be lawful for any person or persons, within the counties named in the act to which this is an addition, who may receive any goods, wares or merchandize, that may have been landed from any vessel, boat, barge or craft, within the precincts of either of said counties, to make application in writing, to either of the port-wardens who may have been appointed under the said act, within twenty-four hours after the said goods, wares or merchandize shall have been landed as aforesaid, stating in said application, the kind and quantity of the goods, &c. received, and that he or they have reason to think that the same are damaged; and whenever application is made to any such port-warden, it shall be his duty, to notify the master, owner or agent of such vessel, boat, barge or craft thereof, and of the time and place of examining and surveying such damaged goods, &c. when and where it shall be the right of said master, owner or agent, to appear, and if he thinks proper, to call in another port-warden, to join in the said survey and estimate of damage, or if no objection is made, the said port-warden shall proceed to examine, survey and estimate the damage on the said goods, &c. and state the cause of the same from the best evidence presented to him by both parties, and give a certificate of the same; and in case a second port-warden is called upon, they shall unite in the examination, survey and estimate of the damage and the cause thereof, and give a joint certificate of the same; but in case of their disagreement, the two port-wardens shall call upon a third port-warden, to decide between them; and the certificate shall, in that case, be signed by them, or by the two agreeing in the facts respecting the damaged goods.

A survey of damaged goods may be had in certain cases.

Mode of proceeding in making such survey, and duty of port-wardens.

Port-wardens to give a certificate of the examination.

Sec. 2. *And be it further enacted*, That it shall be the duty of said port-wardens, to keep a record of all examinations, surveys and estimates of damage so made by them, and copies thereof to give under their hands and seals, on the application of any person; which certificates shall be taken as *prima facie* evidence of the facts therein stated, and shall be received as such, in all courts of law or equity in this Commonwealth; and that

To keep a record of such examinations.

Copies therefrom may be used as evidence in court, &c.

1825.

the fees of said port-wardens, shall be the same for the like services, as are allowed by the act to which this is an addition.

[Approved, January 12, 1825.]

CHAP. 174.—An ACT to alter the times of holding certain Circuit and County Courts in this Commonwealth.

Bath circuit
courts.

Lawrence.

Pike.

Floyd.

Morgan.

Pike county
courts.

Lawrence.

Spencer cir-
cuit courts.

Chancery term
of Mason cir-
cuit court.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of February next, the circuit court for the county of Bath, shall commence on the first Mondays in April, June and October, and sit twelve juridical days, if the business thereof shall require it; the circuit courts for the county of Lawrence, shall commence on the Wednesday succeeding the third Mondays in April, July and October, and sit four judicial days, if the business thereof shall require it; the circuit courts for the county of Pike, shall commence on the fourth Mondays in April, July and October, and sit three juridical days, if the business thereof shall require it; the circuit courts for the county of Floyd, shall commence on the Thursdays succeeding the first Wednesdays in April, July and October, and sit four juridical days, if the business thereof shall require it; the circuit courts for the county of Morgan, shall commence on the second Tuesdays succeeding the fourth Mondays in April, July and October, and sit five juridical days, if the business thereof shall require it.

Sec. 2. The county courts for the county of Pike, shall, from and after the said first day of February next, commence on the second Mondays in each month, except those in which the circuit courts are held. The county courts for the county of Lawrence, shall be held on the third Mondays in each month, except those months in which the circuit courts are held.

Sec. 3. That from and after the first day of March next, the circuit courts for the county of Spencer, shall commence on the third Monday in January, the third Monday in May, and the fourth Monday in August, in each year, and shall continue six juridical days at each term, if the business thereof shall require it.

Sec. 4. From and after the passage of this act, the chancery term of the Mason circuit court, shall commence on the second Monday in February, annually, and sit twelve juridical days, if the business shall require it.

Sec. 5. That from and after the first day of February next, the circuit courts for the county of Oldham, shall commence on the second Monday in January, the third Monday in May and the third Monday in August, and shall sit six juridical days, if the business thereof shall require it. 1825. Oldham circuit courts.

Sec. 6. The circuit courts in the county of Hart, Hart, shall commence on the second Mondays in the months of May, August and November, and continue six juridical days, if the business in said court shall require it.

Sec. 7. That the Pulaski county court shall, from Pulaski county courts. and after the first day of March next, commence and be held on the third Monday in each and every month, except those months in which the circuit court of said county is now directed by law to be held, and may continue for three juridical days, should the business of said court require it. The county court of Rockcastle shall be holden on the fourth Mondays in each month, after the first day of April next, except those months in which the circuit courts are held in said county. Rockcastle:

[Approved, January 12, 1825.]

CHAP. 175.—An ACT to incorporate the Louisville and Portland Canal Company.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That Nicholas Berthoud, Robert Ormsby, James Hughes, John D. Colmesnil, Robert Breckinridge, Isaac Thom, Simeon S. Goodwin, Charles M. Thruston, Worden Pope, W. S. Vernon, John I. Jacob, Samuel Churchill, James Brown, James H. Overstreet, Daniel Fetter, James Guthrie, with their associates, be, and they are hereby created a corporation and body politic, by the name, style and title of "the Louisville and Portland Canal Company," for the purpose of opening and constructing a canal navigation, with suitable locks, docks and basins, around the falls of the river Ohio, within the State of Kentucky; and they, with their associates and successors, shall so continue and have perpetual succession, and by that name are hereby made as capable in law, as natural persons, to contract and be contracted with, to sue and be sued, plead and be impleaded, answer and be answered, in all courts of law or equity in this Commonwealth and elsewhere; to make, have and use a common seal, and the same to break, alter or amend at pleasure. They shall also have the power to purchase Names of the persons incorporated and the style of incorporation. Corporate powers.

1825.



and hold as much real estate as will be necessary for the site of said canal, roads, buildings, docks, basins, and the proper application of the water power, or use of water, that may arise from the proper construction of said canal, with power to make as many dry and wet docks as they may deem advisable; and also, to borrow money to any amount not exceeding the capital stock herein after mentioned; but not to have or exercise the privilege of loaning money, or buying or selling bills of exchange or other choses in action, or issuing notes on banking principles; also, the power to ordain and establish such by-laws, ordinances and regulations, as shall be necessary for the well-being and government of the concerns of said corporation, not contrary to the constitution and laws of this Commonwealth, or of the United States.

Capital stock
and amount of
each share.

Sec. 2. That the capital stock of said company shall consist of six hundred thousand dollars, divided into shares of one hundred dollars each, to be subscribed for in the manner hereinafter mentioned.

Time & place
of opening
books for sub-
scription of
stock, to be ad-
vertised.

Sec. 3. That within thirty days from the passage of this act, the persons herein before named, or a majority of them, shall cause a public advertisement to be made, of the time and places of opening books for the subscription of the stock of said company; which books of subscription shall be kept open, under the direction of the aforesaid persons, or a majority of them, not less than ten days nor more than ninety days. If, however, at the closing of the subscription, it shall be found that a greater number of shares shall have been taken than the number of six thousand, then and in that case the persons afore named, or a majority of them, shall proceed to reduce the subscription, in an equitable proportion, among the subscribers, taking off from the largest subscribers, and not reducing any one below ten shares.

Books, when
and how long
to be kept
open, &c.

A meeting of
shareholders to
be advertised,
as soon as 1000
shares are sub-
scribed.

Sec. 4. That whenever one thousand shares of the capital stock of said company shall have been subscribed, the persons aforesaid, or a majority of them, shall advertise a 'meeting of the shareholders of said company, in Louisville, giving at least fifteen days' notice of the time and place of such meeting, and shall thereupon proceed to the election of a President and four Directors, who shall be shareholders in said company, and also fix what compensation they shall be entitled to, if any is allowed; and also, to ordain and adopt such other permanent by-laws for the organization of the said corporation, as they may deem needful;

President and
directors to be
appointed, &c.

In which meeting, as well as at all future meetings or elections, each shareholder shall be entitled to one vote for every share he may hold, to the number of twenty, and one vote for every ten shares over twenty; but after the first general meeting and election, no person who is not a citizen of the United States, shall vote on any shares in said company, either in person or by proxy. At all subsequent elections, no shares shall be voted on, that have not stood in the name of the person claiming to vote, at least three months previous to the day of election. Shares may be voted on by proxy duly recorded and conforming to the foregoing qualifications.

1825.

Manner of voting, and who permitted to vote, &c.

Sec. 5. That the President and Directors first chosen shall hold their offices until the first Monday of January 1826, or until others shall be chosen in their places. On the first Monday of January in each year, the stockholders of said company shall meet at their office, or some place to be designated by the President and Directors, in Louisville, and there proceed to choose a President and four Directors, who shall be shareholders in said company, and residents, citizens of the United States, and who shall hold their offices for one year, and until others shall be elected in their places; public notice of such meetings and elections to be given by the Clerk or Secretary of the company, in some public newspaper printed in Louisville, Frankfort and Cincinnati, at least fifteen days previous to any such meeting or election. At the annual meetings, a statement of the affairs of the company shall be made out and presented to the meeting by the President and Directors, and such dividend of the profits declared, as they may deem advisable.

President and Directors first elected, to hold their offices until the first of January 1826.

Elections to be thereafter held annually.

Public notice to be given of annual meeting.

A statement of the affairs of the company to be submitted, and profits declared, at each annual meeting.

Sec. 6. That the concerns of said corporation shall be under the control, superintendence and management of the said board of President and Directors; a quorum of which, to do business, shall consist of the President and two Directors, or, in the temporary absence of the President, of three Directors, who may appoint one of their number as President *pro tem*. The President and Directors may, after they shall have been duly elected as aforesaid, make such assessments on the shares subscribed, and payable at such periods as they may deem proper, with such conditions of forfeiture for non-compliance, not exceeding the amount of the stock delinquent, as they may deem advisable. They may open or renew the subscription for the shares not already

How many shall constitute a quorum to do business.

The President and Directors may make assessments on shares, and impose a forfeiture for non-compliance.

May open subscriptions for stock not subscribed.

1825.

Proviso.

subscribed, or dispose of them in any manner that they may think for the interest of the company: *Provided, however,* that they shall not sell any stock or share in said company at less than the par value thereof; and also, that proper notice of the time and place of said subscription or sale is given in one or more public newspapers printed in Louisville, Frankfort and Cincinnati.

May appoint a clerk, treasurer, &c.

Sec. 7. That it shall be the duty of the said President and Directors to appoint a Clerk or Secretary, a Treasurer, and such other officers or agents as they may think needful for prosecuting the said undertaking, and to allow them such pay or compensation as they may agree on; to make contracts, and do all things necessary for carrying the same into immediate effect, and to require and take such bonds or other security, in their corporate name, from any person or persons they may so appoint or contract with. In case of the death, resignation, or vacancy from any other cause, in the said board of President and Directors, the remaining members may proceed to appoint a stockholder or stockholders to supply the place or places of the President, Director or Directors so vacated, for the unexpired time for which he or they were elected.

May make contracts.

Vacancies in the board, how filled.

May lay off & appropriate land for a canal, &c.

Sec. 8. That the President and Directors of said company, by themselves or their agents or workmen, shall have full power to enter into and upon any lands in the vicinity of the proposed canal, and to survey and lay out such route or track as shall be deemed by them most practicable, for effecting a safe and easy navigation, and also for suitable locks to it, and dry docks, suitable for such objects as are within the contemplation of this act and the organization of this company, doing as little injury to the adjoining grounds and enclosures as is possible, in the prosecution of the proposed undertaking; and it shall and may be lawful for the owners of the lands and tenements, to contract and agree with the said President and Directors for the conveyance of so much of said lands as will be necessary and requisite for the purposes aforesaid, if the said President and Directors can agree with said owners; but in case of disagreement, said company may proceed to lay out and open their works on such ground as they may deem best adapted to the purposes of navigation, waterworks, wet and dry docks, and basins, connected with the same; and on application of either party to the cir-

In case of disagreement, with the owners, may proceed to have the same condemned.

cuit court of Jefferson county, the said court shall appoint twelve persons, who shall be freeholders and disinterested, to view and assess the damages and advantages arising to the said owners by the location of the said works, and make report thereof to said court; which report, when duly received and admitted to record, shall be final, and on the payment of the money, if any is awarded, shall vest in the said company the fee simple to the land. The President and Directors shall likewise have power to sell or lease for a term of years, the privilege of erecting docks or other locations on the said canal or its appendages.

1825.

May lease or sell the privilege of erecting docks, &c.

Sec. 9. That it shall and may be lawful for the said President and Directors, by themselves, their agents or workmen, to enter, with such force as they may employ for that purpose, upon the lands contiguous or near to the proposed canal, and from thence to take and carry away any earth, stone, timber, gravel, &c. being most convenient for making or repairing the said canal and appendages, making proper compensation therefor to the owners of said land, if they can agree therein; but in case of disagreement, then it shall be settled by valuation, in the manner before recited. And when the said canal shall be completed, suitable for the passage of boats drawing four feet of water in low stages of water, the said President and Directors, by themselves, their agents or servants, shall have power and authority to demand and receive from the owner or owners, master or agents of all vessels, boats, barges or other craft entering the said canal, the following rates of toll, to be paid before the said vessel, boat, barge or craft shall be suffered to pass through the same, to wit: For steam boats, sea vessels, barges or keel boats, twenty cents per ton, United States measurement; for each flat boat, four dollars; for each raft of timber, plank or other lumber, four dollars for every sixty feet in length, not exceeding twenty feet in width. The said tolls to be paid in gold or silver coin, current in the United States; and in no event shall any law be passed, requiring or compelling the said company to receive any other currency in discharge of toll. The said President and Directors shall fix and establish such sums as they may deem advisable, for the use of the docks, basins and other appendages to the said canal; which rates, with the foregoing rates of toll, shall be posted up in some conspicuous place on the said canal, and no other or greater rates shall be demanded, than those so posted up.

May take materials from the adjacent lands, or have the same condemned.

Rates of toll.

The President and Directors may fix the rates for the use of docks, basins, &c.

Rates to be posted up.

1825.

Penalty for
trespass.

Sec. 10. That if any person or persons shall wilfully and knowingly do any act or thing whatever, whereby the said navigation, or any lock, gate, dam, engine, machine or other thing thereto belonging, shall be injured, or damaged, or impeded, or shall commit any wilful trespass, or take, carry away or conceal any material, instrument, tool or other thing belonging to, or used in or about the said works, or shall open or cause the locks to be opened, or attempt so to do, or to pass or repass without the knowledge of the agent or manager to said canal, he, she or they so offending shall forfeit and pay to the said canal company, their tenant or agent, three times the amount of the cost or damage sustained by means of, or through such wilful act, together with costs of suit, to be recovered before any court of competent jurisdiction; and in case of clandestinely taking and carrying away, be liable to a prosecution for theft, as in other cases.

Mode of recovery.

An account of expenditures & profits to be annually made to the legislature.

Sec. 11. That the said President and Directors shall keep a true account of the cost and expenditure of the said canal and appendages, and on the first Monday of January in each year, have the same made up, and the balance of profits struck and divided among the stockholders, and report the same to the General Assembly of this Commonwealth; and if it shall appear by the said return so made under the oath of the President and Directors, that the profits so divided do not amount to twelve and a half per cent. on the capital expended, the said corporation shall be authorised to add to the tolls for the succeeding years, until the net profits, after deducting for all expences, repairs and necessary improvements, shall amount to twelve and a half per cent. per year. But should it appear by the said returns, that the net profits as aforesaid exceed eighteen per cent. per year, after the expences, repairs and necessary improvements are made, the Legislature reserve to themselves the right so to reduce the amount of tolls, as that the profits to be divided shall not exceed eighteen per cent. per annum.

The tolls may be raised, so as to not 12 1-2 per cent. on the stock, but shall not exceed 18 per cent.

The trustees of Louisville authorised to take stock in said company, &c.

Sec. 12. That the trustees of the town of Louisville shall have a right to subscribe for, and take any amount of stock in this company or corporation not exceeding one thousand shares, and that whatever sum which may be so subscribed for and taken by the trustees aforesaid, not exceeding one hundred thousand dollars, shall not be reduced by any thing in the third section of this act contained; and that said trustees and their

successors shall be entitled to the same votes as other subscribers or stockholders, and not otherwise; which stock may be subscribed for by the President or Chairman of the board of trustees for the time being, and the votes to which they may be entitled, may be either given by the President or Chairman of said board for the time being, or such other person as they may appoint: *Provided*, that such subscription by such trustees be made within thirty days from the time of opening the books for subscription of stock. And to enable said trustees to raise and borrow the necessary funds to meet and pay up their subscription of stock, the said trustees and their successors may pledge the amount of their stock so subscribed and taken, as well as their interest or profits arising from the proposed canal and dry and wet docks and other appendages, as well as any other funds or property they may possess as trustees aforesaid.

1825.

May contract
for a loan of
money, &c.

Sec. 13. That the stock in said canal company shall and may be transferable, in whatever manner the President and Directors of said canal may, by their by-laws, ordain and appoint.

Mode of trans-
ferring stock.

Sec. 14. That unless the said company shall, within eighteen months from the passage of this act, *bona fide* commence the cutting of said canal, or shall fail, within three years from the passage of this act, to have the main object of their charter, to wit, the canal itself, completed, the corporate powers hereby granted shall cease and determine; *Provided*, that if the said stock shall not be subscribed, and notice given by the company to the Governor of the Commonwealth, on or before the first day of November next, that then this charter shall cease and be void, and all rights and privileges become null and void, to all intents and purposes, as if this act had not passed.

Corporate
powers repeal-
ed, unless the
canal is begun
and completed
within certain
periods.

Proviso.

[Approved, January 12, 1825.]

CHAP. 176.—An ACT for the benefit of the heirs of Isaac Flannery.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the whole of the State price, (or the balance, in case of partial payment,) due on a tract of land containing one hundred and eight acres, lying in Livingston county, granted by county court certificate No. 728, in November 1805, to Elijah Flannery, and by him assigned to Francis Liddell, and by said Liddell to Isaac Flannery, which has descended to

State price on
a tract of land
remitted.

1825.

the heirs of said Isaac Flannery, and for which they are unable to pay, be, and the same is hereby remitted; and the Register of the land-office is hereby directed and required, upon the production of the plat and certificate of survey of said land to him, to issue to the heirs of said Isaac Flannery, a grant for the same, as in other cases: *Provided, however*, that the widow of the said Isaac Flannery shall be entitled to her dower in said land.

[Approved, January 12, 1825.]

CHAP. 177.—An ACT to establish a Tobacco Inspection in the Town of Portland.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That an inspection of tobacco shall be established in the town of Portland, in the county of Jefferson, on the lot on which the large brick warehouse in said town is situated, known formerly by the name of Vernon and Blake's warehouse, being the same lot conveyed by John Rowan to Gray and Stewart, to be called and known by the name of Gray and Stewart's Inspection, and to be governed by the same rules and regulations which regulate other tobacco inspections in this State.

[Approved, January 12, 1825.]

CHAP. 178.—An ACT for the benefit of Henry G. Mitchell and Ezekiel Jenkins.

Preamble.

WHEREAS it is represented to the General Assembly, that Henry G. Mitchell and Ezekiel Jenkins are the owners of a water grist-mill on Big Barren river, in the county of Warren; that the same is of great public utility and convenience, and that the dam there, erected presents no obstruction to the navigation of said river, when the same is in a navigable state; and it is further represented, that by law commissioners have been appointed to cause all obstructions in said stream to be removed, and it is feared that they will cause the said mill-dam to be removed:

Their mill-dam on Big Barren river, not to be removed.

Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky, That nothing contained in the aforesaid act, shall be so construed as to authorise the removal of said mill-dam; but that the same shall be and remain as though the said act had not passed.

[Approved, January 12, 1825.]

CHAP. 179.—An ACT to authorise Advertisements to be made in the Western Luminary, and Farmer's Register and Village Chronicle.

1825.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for all advertisements to be made and published in the newspaper established in the town of Lexington, called the Western Luminary, and the newspaper printed in the town of Flemingsburg, called the Farmer's Register and Village Chronicle, under the same rules and regulations, and to have the same effect, as advertisements published in other newspapers in this Commonwealth.

[Approved, January 12, 1825.]

CHAP. 180.—An ACT for the benefit of the widow and heirs of James Lapsley.

WHEREAS it is represented that James Lapsley, late Preamble. of the county of Adair, departed this life possessed of a small real estate in the said county of Adair, leaving a widow, who has administered on his estate together with John Lane, administrator, and several children who are infants, and not leaving assets sufficient for the payment of all his debts, in consequence whereof, it is apprehended that said real estate will be subjected to great loss and perhaps to eventual ruin, unless provision be made by law for the application of a portion of it to the payment of said debts, without coercive sale by execution: Wherefore,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the circuit court of Adair, sitting in chancery, shall have power, on the joint application of the administrator or administratrix of the estate of the said James Lapsley, deceased, and of his heirs, by their guardian *ad litem*, (to be appointed as hereinafter directed,) to decree the sale of so much of said real estate, in the said county of Adair, as he shall deem necessary for the payment of debts due, and which may hereafter become due against said estate, on such terms and in such mode as he may consider most conducive to the interest of the personal and real representatives of said decedent, and direct the proceeds of such sale to be paid over to the said administrator or administratrix, on either or both of them acknowledging, in open court, a bond with approved security, in the penalty of at least double the amount of sale, payable to the aforesaid heirs, with a condition that they

Adair circuit court authorised to decree a sale of real estate.

1825.

To appoint
guardians ad
litem for in-
fant heirs.

or either of them, will faithfully apply to the payment of said debts, the whole amount so paid over; which bond shall be filed and made a part of the records of said court, for the security of said heirs.

Sec. 2. It shall be the duty of the Judge of the said court, on the application of the said heirs, to appoint a guardian *ad litem* for each of them, for the purpose of enabling him to execute the power vested in him by the foregoing section, whose duty it shall be, in the event of any portion of said estate being sold by decree of said court, to make a legal title thereto, to the purchaser or purchasers, by deed of general warranty, in the name and behalf of the aforesaid heirs; which deed or deeds shall vest the absolute legal title to the property thereby conveyed, in the conveyee or conveyees, free from any claim by said heirs forever.

[Approved, January 12, 1825.]

CHAP. 181.—An ACT to amend the several acts more effectually to suppress the practice of duelling.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That whensoever it may become necessary to administer the oath directed by the several acts of Assembly more effectually to suppress the practice of duelling, to any officer of this Commonwealth, it shall be so amended as to insert the first day of November, 1824, instead of the first day of September, 1821.

[Approved, January 12, 1825.]

CHAP. 132.—An ACT for the benefit of the heirs of John H. Holt

Preamble.

WHEREAS it appears to the present General Assembly that an entry of one thousand acres of land, on a military warrant number 32, was made in the name of John H. Holt, lying on Big Barren river; that the same has been legally surveyed, and in the time prescribed by law; and that a number of years ago, the said John H. Holt departed this life, and said land descended to his heirs, who then were and still continue *femes covert*; that owing to that circumstance, the plat and certificate have not been returned to the Register's office: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the heirs of the said John H. Holt, shall have a right to return, and the Register of

Register to is-
sue a patent.

the land-office is hereby directed to receive the plat and certificate of survey, or in case the same is lost, a copy thereof, upon the said entry of one thousand acres, and issue to the said heirs a patent thereon.

1825.

[Approved, January 12, 1825.]

CHAP. 183.—An ACT to legalize the proceedings of the Harrison County Court, and for other purposes.

WHEREAS it is represented that the Harrison county Preamble. court, at their last December term, proceeded irregularly, in not having, before their adjournment, the minutes of their proceedings read publicly by the clerk and signed by the first justice in commission, then sitting:

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the acts and proceedings of said county court, be, and are hereby rendered valid and legal, as if the same had been regularly read and signed as required by law. Proceedings declared valid.

Sec. 2. *And be it further enacted,* That the sheriff of Harrison county be, and he is hereby authorized to report his delinquent list to three justices of Harrison county, whose examination and certificates of approval, shall have the same effect as if the proceeding had been regular before the county court. Sheriff to report delinquent list to three justices of peace.

[Approved, January 12, 1825.]

CHAP. 184.—An ACT declaring Kennikennick navigable to the mouth of the Laurel fork.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, Kennikennick creek, in the county of Lewis, shall be and the same is hereby declared a navigable stream, from its junction with the Ohio to the mouth of Laurel fork; and Jeremiah and John Moore, owners of a mill-dam on said creek, within the limits aforesaid, shall, within two years from the passage of this act, build a slope to their dam, of at least six feet for every foot their dam is high, and at least twenty feet wide in the clear; and all dams hereafter built on said creek, within the limits aforesaid, shall build a slope as above described, and new dams may be built on the above principles and conditions: *Provided, however,* that the owners of such dams, shall, at all times, keep up the slopes hereby required to be built, and on failure thereof, such dam shall be considered as a nuisance.

[Approved, January 12, 1825.]

1825.

CHAP. 185.—An ACT to regulate suits against joint and several obligors.

Preamble.

WHEREAS great inconvenience and oppression frequently happen, by bringing a number of suits upon notes and bonds which are joint and several, when one suit alone would, for all the purposes of justice, be sufficient: For remedy whereof,

The plaintiffs in actions upon joint and several obligations, not to recover costs in more than one suit, &c.

• Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That hereafter, when an obligee or obligees, assignee or assignees, shall elect to bring several actions upon a bond or note which is joint and several, and when by law a joint action could be brought and prosecuted, that said obligee or obligees shall not recover costs in more than one suit; and upon the court being satisfied by the certificate of the clerk of the court where the first judgment was obtained, that a judgment has been rendered upon said note or bond, against one of the obligors in said note or bond for the costs of suit, then and in that case, the court where the second suit is tried, shall give judgment, against the plaintiff or plaintiffs for the costs of said suit.

The return of 'executed' upon one or more of the obligors, and 'not found' as to the others, will authorize a judgment.

Sec. 2. That in all cases where suits may be brought against joint obligors, or against joint and several obligors, and the sheriff shall return upon the process, *executed*, as to one or more of the defendants, and *not found* as to the other defendant or defendants, it shall and may be lawful for the plaintiff to take such steps and proceed in such manner as he could, provided the return had been *no inhabitant*, as to such defendant or defendants so returned not found.

[Approved, January 12, 1825.]

CHAP. 186.—An ACT to legalize the proceedings of the proprietors of the town of Lewisburg.

Preamble.

WHEREAS it is represented to the present General Assembly, that the town of Lewisburg, in the county of Muhlenburg, was, about the year 1800, laid off in streets, lots and alleys, by trustees legally appointed for that purpose; that said trustees made sale of the lots and collected the consideration; that the owners of the lots have improved the same; that the trustees aforesaid wholly failed to make out and have recorded a plan of the town; that the proprietors of the lots aforesaid, caused a resurvey to be made of the lots, streets and alleys and a plat thereof to be recorded in the clerk's

office of the county court of Muhlenburg, which, though just and equitable, was not according to law.

1825.

Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky, That the plan of the town of Lewisburg, as made out by the proprietors thereof, and now of record in the clerk's office of the county court aforesaid, be as valid, to all intents and purposes, as if the same had been made out and recorded by the trustees aforesaid, and that their plan of said town be read as evidence in all courts of record in this Commonwealth.

Plan of town as heretofore made out, declared valid.

[Approved, January 12, 1825.]

CHAP. 187.—An ACT to provide for taking the deposition of Clerks in certain cases,

WHEREAS it is represented to this General Assembly, that much inconvenience is experienced in obtaining the evidence of clerks of the courts of this Commonwealth, by many of the courts sitting at or near the same time: For remedy whereof, Preamble.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful to take the deposition of the clerk of any court in this Commonwealth, residing out of the county in which the deposition is intended to be used, to be read as evidence in any suit at common law now depending, or which may hereafter be commenced, or before any justice of the peace of this Commonwealth: *Provided,* that a reasonable notice shall be given to the plaintiff or plaintiffs, or defendant or defendants, as the case may be, of the time and place of taking such deposition.

May be taken where they live out of the county, in cases at common law.

Proviso.

[Approved, January 12, 1825.]

CHAP. 188.—An ACT for the benefit of the heirs of Jacob Stucker, deceased.

WHEREAS it is represented to the present General Assembly, that Jacob Stucker died possessed of about thirty acres of land, in the county of Scott, which he left to be divided among his heirs, consisting of eleven in number: Wherefore, Preamble.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Scott circuit court is hereby authorized and empowered, upon the petition of said heirs to that effect, (the infants by their guardian,) to decree a sale of said tract of land, under such restric-

Circuit court of Scott may decree a sale of a tract of land, &c.

1825.

tions as may be necessary to protect the interest of said heirs; and the said court is authorized to appoint commissioners to sell and convey said land, and to divide the proceeds of such sale among the several heirs.

[Approved, January 12, 1825.]

CHAP. 189.—An ACT for the benefit of Abraham Wood and others.

Preamble.

WHEREAS it is represented to this General Assembly, that Abraham Wood, John F. Napier and Joseph F. Napier, have, at considerable expence and trouble, delivered to the Keeper of the Kentucky Penitentiary, three convicts who escaped from that institution on the morning of the fifteenth of November last, namely, Benjamin B. Harris, Sharon Mosslander and William Pulasky; and it further appears, that the Keeper has not the means wherewith to pay the expences of apprehending and delivering said fugitives: Wherefore,

Auditor to issue warrant, and to whom,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Auditor of public accounts be, and he is hereby authorized and directed to issue his warrant on the Treasury for the sum of thirty-six dollars seventy-five cents, being the amount of said expences, to the said Abraham Wood, John F. Napier and Joseph F. Napier, for delivering said convicts to the Keeper of the Penitentiary.

Sec. 2. *Be it further enacted,* That the above sum of thirty-six dollars seventy-five cents, and also five hundred dollars, authorized by a law of this session to be drawn from the Treasury, for the support of the convicts in the Kentucky Penitentiary, be, and the same is hereby retained out of the first money hereafter paid into the Treasury by the Agent of the Penitentiary; and the Auditor of public accounts shall credit the Treasury with said sums of money, and withdraw the same from the Penitentiary fund, as though this act and the act herein alluded to, had never passed.

[Approved, January 12, 1825.]

CHAP. 190.—An ACT to amend an act approved December 29th, 1823, entitled "an act to amend the law in relation to the turnpike and wilderness road," and for other purposes.

Part of the act of 1823, repealed.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That so much of the act entitled "an act to amend the law in relation to the turnpike and wilderness road," approved December 29th,

1822, as exempts all persons residing within two miles of the said turnpike and wilderness road, in Knox and Harlan counties, from working on any other public road, and requires such persons to work on the said turnpike and wilderness road, four days in each year, be, and the same is hereby repealed.

1825.

Sec. 2. That all and every person subject to work on public roads, and who may reside within one quarter of a mile of the said turnpike and wilderness road, shall hereafter be compelled to work thereon four days in each year, in the manner now prescribed, and subject to the rules, regulations and penalties now provided by law for working on public roads: *Provided, however,* no person shall be compelled to work on said road for a greater distance than five miles from his place of residence, and shall be exempt from working on any other public road.

Who shall work on said road, in Knox and Harlan.

Sec. 3. That all the hands living on that part of the road that leads through Rockcastle county, shall be subject to work on said road four days in each year, except those that are bound to work on the turnpike road that leads to the Goose creek salt-works; and the said hands shall be subject to fines as all other hands are, in like cases.

In Rockcastle.

Sec. 4. That the manager of the said road, who may superintend that part of the road leading through Rockcastle county, shall move the road out of the bed of Roundstone creek, and run it above high water mark, and draw upon the turnpike keeper in the same way and manner as is provided for on that part of the Madison new road, that leads around the big hill.

Road to be removed out of the bed of Roundstone creek.

Sec. 5. That the county courts of Madison, Knox and Rockcastle, shall appoint managers to do all the duties as they were before, and to oversee and work the same themselves, without the expence of the overseer, as provided by the law now in force.

Managers of said road to be appointed, &c.

Sec. 6. That should the different courts appoint any other manager or managers than the present ones, they shall have power to call upon all or any of the former managers and gate-keeper, to settle with them, and draw from each of them any money that should remain in their hands belonging to the turnpike gate on said road, and collect the same by suit or otherwise.

A settlement of accounts to be had, if new managers be chosen.

Sec. 7. That this law shall be in force only two years, so far as compels the citizens living on said road, to work on the same.

This act, when to expire in part.

Sec. 8. *Be it further enacted,* That it shall be the duty of the keeper of the said turnpike gate, to keep a

1825.

Duty of the
keeper of turn-
pike gate.

separate account of the different kinds of money that he may receive from persons passing through the same, and pay over to the commissioners of said road, the same kind of money that he receives as aforesaid, in proportion to what they are severally entitled to receive.

Part of the mo-
ney received at
the gate, to be
paid to county
court of Clay.

Sec. 9. *And be it further enacted*, That the gate-keeper shall, and he is hereby directed to keep a true and accurate account of all the money he may receive from persons wagoning salt from General Hugh White's newly erected salt-works, on the left hand fork of Goose creek, and the one half of all such money he shall pay over to the county court of Clay, or their order, and by them shall be laid out to the best possible advantage, in repairing and keeping in order the new road, leading from Flat Lick to the works above mentioned.

(Approved, January 12, 1825.)

CHAP. 191.—An ACT appointing additional Trustees to the Somerset Academy.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That Peter W. Clark and Fountain T. Fox, be and they are hereby added to and incorporated with the present trustees of the Somerset Academy, who shall, in common with the present trustees, possess the same powers and authorities over and concerning said institution, in every respect, as is possessed by the present trustees.

(Approved, January 12, 1825.)

CHAP. 192.—An ACT to amend an act for surveying the military lands west of the Tennessee river.

Further time
to return plats
and certificates
of surveys.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That until the first day of June, 1826, be allowed to the claimants to return the plats and certificates of surveys upon the entries made upon military warrants, before the first day of May, 1792, west of the Tennessee river, any law to the contrary notwithstanding.

Preamble.

And whereas a mistake was made in the third section of the above mentioned act, in relation to the surveyor's fees: For remedy whereof,

Surveyor's
fees.

Sec. 2. *Be it further enacted*, That the said surveyor shall be allowed for every original survey by him plainly bounded as the law directs, and for a plat of said

survey, upon the delivery thereof, where the survey shall not exceed four hundred acres, the sum of five dollars, and for every survey which shall contain more than four hundred acres, five dollars for the first four hundred acres, and at the rate of fifty cents for every one hundred acres contained in such survey.

1825.

[Approved, January 12, 1825.]

CHAP. 193.—An ACT to authorize the insertion of certain advertisements in the Constitutionalist, printed in Versailles.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful to insert and publish in the Constitutionalist, printed in the town of Versailles, any advertisements which are authorized by law to be published in any newspaper in this State, except such advertisements as are required by law to be published in the paper of the public printer; and the editors of said paper shall be governed by the same rules; and entitled to the same fees as other printers in this Commonwealth.

[Approved, January 12, 1825.]

CHAP. 194.—An ACT for the benefit of the heirs of Joseph Ray and William M'Dowell, William S. M'Dowell and Samuel I. M'Dowell.

WHEREAS it is represented that Joseph Ray, of Preamble Washington county, departed this life possessed of a large real estate in the said county of Washington, leaving Nicholas Ray, who has administered on his estate, and several children who are infants, and not leaving assets sufficient for the payment of all his debts, in consequence whereof, it is apprehended that said real estate will be subjected to great loss, and perhaps, eventual ruin, unless provision be made by law for the application of it to the payment of said debts, without coercive sale by execution: Wherefore,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the circuit court of Washington county, sitting in chancery, shall have power, on the joint application of the administrator of the estate of the said Joseph Ray, deceased, and of his heirs, by their guardian *ad litem*, (to be appointed as herein after directed,) to decree the sale of thirty acres of land, including the mill thereon, lying in the county of Washington, for the payment of debts due and which

Circuit court
of Washington
may decree a
sale of property,
&c.

1825.

may hereafter become due against said estate, on such terms and in such mode as he may consider most conducive to the interest of the personal and real representatives of said decedent, and direct the proceeds of such sale to be paid over to the said administrator, on his acknowledging in open court, a bond with approved security, in the penalty of at least double the amount of sale, payable to the aforesaid heirs, with a condition that he will faithfully apply to the payment of said debts, the whole amount so paid over to him; which bond shall be filed and made a part of the records of said court, for the security of said heirs.

A guardian ad litem to be appointed for each heir.

Sec. 2. It shall be the duty of the Judge of said court, on the application of the said heirs, to appoint a guardian *ad litem* for each of them, for the purpose of enabling him to execute the power vested in him by the foregoing section, whose duty it shall be, in the event of any portion of said estate being sold by decree of said court, to make a legal title thereto to the purchaser or purchasers, by deed with general warranty, in the name and behalf of the aforesaid heirs; which deed or deeds, shall vest the absolute legal title to the property thereby conveyed, in the conveyee or conveyees, free from any claims of said heirs, forever.

Preamble.

And whereas William M'Dowell and his two sons, William S. M'Dowell and Samuel I. M'Dowell, have all died leaving real estate and infant representatives, and not sufficient personal estate to pay their respective debts, and William H. Rochester has become the personal representative of said decedents, and together with the guardians of the said infants, has applied to the Legislature for permission to dispose of the real estate for the payment of debts: Therefore,

Circuit court of Warren may decree the sale of certain lands.

Sec. 3. *Be it further enacted*, That the circuit court for Warren county shall be authorized, on the joint petition of the aforesaid personal and real representatives of the aforesaid decedents, to decree the sale of so much of their respective real estates, as it shall deem necessary and proper, under the same regulations as are prescribed in the first and second sections of this act.

(Approved, January 12, 1825.)

CHAP. 195.—An ACT to amend the several acts in relation to opening a road from Beaver Iron-Works to Prestonsburg.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be

lawful for the county court of Morgan county, a majority of all the justices of said court being present, to appoint four commissioners, whose duty it shall be to view and mark the nearest and best way for a road from Beaver creek iron-works, in Bath county, by Edmund Wells' mill on Licking river, in Morgan county, to Prestonsburg, in Floyd county; and said commissioners shall, before they proceed to discharge the duties required of them by this act, make oath before some justice of the peace of Morgan county, that they will faithfully and impartially discharge the duties required of them by this act; and the said commissioners shall make a report of their proceedings, to the county court of Morgan county, as soon as they shall have discharged their duty as commissioners as aforesaid.

1825.

County court of Morgan to appoint commissioners to view and mark a way for said road to run.

Commissioners to report to said court on oath, &c.

Sec. 2. *Be it further enacted*, That the managers appointed by an act entitled "an act to authorise a lottery for opening a road from Beaver creek iron-works to Prestonsburg, and for other purposes," approved December the 29th, 1823, shall, in the county court of Morgan county, give bond and security, as is required by the act approved December the 2d, 1822, relative to said lottery; and said managers, together with their clerk or clerks, shall, before they proceed to the discharge of their respective duties, take an oath before some justice of the peace of Morgan county, faithfully and impartially to discharge the duties required of them according to law.

Managers of lottery to give bond, &c.

[Approved, January 12, 1825.]

CHAP. 196.—An ACT to further regulate the pay of the Sheriffs for comparing polls for Governor and Lieutenant-Governor.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That hereafter the sheriffs of the several counties within this Commonwealth shall be entitled to the same mileage and compensation for comparing polls for Governor and Lieutenant-Governor, as is now allowed by law for comparing polls for representatives to Congress, and to be drawn in the same manner.

Allowed same compensation as for comparing votes for Congressmen.

Sec. 2. That the Auditor of public accounts be, and he is hereby directed, upon the application of the sheriffs of the several counties within this Commonwealth, to issue his warrant upon the Treasurer, for such sum as is provided for by the first section of this act.

Auditor's duty.

[Approved, January 12, 1825.]

1825.

CHAP. 197.—An ACT supplementary to an act entitled “an act to incorporate the St. Joseph’s College of Bardstown.”

WHEREAS doubts exist whether the institution has power to confer degrees upon their pupils and graduates: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said institution have power to confer such degrees and literary honors upon the pupils of the College, as the managers thereof think them entitled to, from the rectitude of their conduct and their advancement in learning.

[Approved, January 12, 1825.]

CHAP. 198.—An ACT for the benefit of Jonathan Taylor.

Preamble.

WHEREAS it is represented to the present General Assembly, that Jonathan Taylor, on the 7th day of April 1784, made an entry upon the waters of Miller’s creek, in the now county of Estill, of two thousand two hundred and twenty acres, upon a treasury warrant No. 14,181; that the same was surveyed in due time, but the plat and certificate of survey, through the negligence of the agent of the said Taylor, never was returned to the Register’s office: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for said Taylor to return to the Register’s office the plat and certificate of survey of said entry, and that a patent issue thereupon: *Provided, however,* that no adverse claim to the land within the bounds of said survey, or any part thereof, shall be in any way affected by the passage of this act.

[Approved, January 12, 1825.]

CHAP. 199.—An ACT for the benefit of the heirs of George Chamblin, deceased.

Preamble.

WHEREAS it is represented to the General Assembly, that George Chamblin died seized and possessed of about three hundred and fifty acres of land, which he left to be divided between his heirs, consisting of nine children; and whereas three of the said children have, since the death of their said ancestor, and also since a division was made of said land, departed this life, leaving their respective portions or lots of land in separate parcels; so that when divided amongst the remaining six heirs, it would render the said portion of but little value to any of them: Wherefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Bourbon circuit court is hereby authorised and empowered, upon the petition of said heirs to that effect, (the adults by themselves, and the infants by their guardians,) to decree a sale of that part or parcel of said tract of land, which the said surviving heirs may be entitled to by descent or by devise, under such restrictions as may be necessary to protect the interest of said heirs; and that said court is authorised to appoint a commissioner or commissioners to sell and convey said land, and to divide the proceeds of such sale amongst the several heirs.

1825.

Bourbon circuit court authorised to decree a sale of their real estate.

[Approved, January 12, 1825.]

CHAP. 200.—An ACT for the benefit of John Alexander.

WHEREAS, it is represented to the present General Assembly, that John Dunlap, James Dunlap, George Keitly, William Orr and Michael Hillegas, on the 8th day of October 1783, entered into articles of copartnership, for entering one hundred and thirty-five thousand acres of land, in the then State of Virginia, upon warrants purchased by them; that James Dunlap, Keitly and Orr, were, by the agreement, to come to the western country, and make the entries; that they proceeded down the Ohio, and made the entries for one hundred and thirty-one thousand acres of land, in the now counties of Hardin, Breckinridge, Grayson, Meade and Hart; that the same was afterwards carried into grant in the name of John Dunlap and Michael Hillegas, two of the partners who were naturalized, the others being aliens—one patent, bearing date the 4th day of February 1798, for ninety-eight thousand acres, another of the same date, for twenty-eight thousand, and another for five thousand acres; that William Orr, by the agreement, was entitled to thirty thousand acres of the land, when secured; that some time in the year 1800, Orr, by his agent and attorney in fact, sold and conveyed unto Alexander Fulton, the land being previously divided by commissioners appointed for that purpose under the act of 1797; that said Fulton, in the year 1803, sold and conveyed the whole tract to John Alexander; that doubts are entertained, whether, as William Orr was an alien at the time, the purchaser acquired any title, legal or equitable: For remedy whereof,

1825.

Claim of the
Commonw'th.
to certain land
relinquished.

Conveyance
declared valid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That any claim the Commonwealth may have to said tracts of land, to wit, one of ninety-eight thousand, one of twenty-eight thousand, and one other of five thousand acres, by reason of William Orr's being an alien at the time he made sale thereof, shall be, and the same is hereby relinquished to John Alexander, who now holds the claim of William Orr, and that he may hold, use and enjoy, sue for, alien and convey the same, in the manner, and under the same rules and regulations as if William Orr had been, at the time of the sale, a natural born citizen: *Provided, however,* that nothing in this act contained shall be construed to affect the rights of others, except so far as to put the said John Alexander upon the footing he would have occupied, if William Orr had been a natural born citizen.

[Approved, January 12, 1825.]

CHAP. 201.—An ACT to alter the time of holding the County Court of Nelson.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter the county court of Nelson county shall commence their monthly terms on the second Monday of each month, any law to the contrary notwithstanding.

[Approved, January 12, 1825.]

CHAP. 202.—An ACT to amend an act entitled "an act to authorise a Lottery for the purpose of draining the Ponds in the Town of Louisville, and adjoining thereto."

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the first and third sections of the act entitled "an act to authorise a lottery for the purpose of draining the ponds in the town of Louisville, and adjoining thereto," approved December 7th, 1822, be, and the same are hereby repealed.

Part of former
act repealed.

Managers ap-
pointed, and
their duties.

SEC. 2. *Be it further enacted,* That it shall and may be lawful for Nicholas Berthoud, Robert Todd, Isaac Miller, Benjamin Lawrence, and Isaac Thom, or a majority of them, to raise by way of lottery, in one or more classes, as to them may seem most convenient and necessary, any sum not exceeding forty thousand dollars, to be appropriated by them, or a majority of them, in draining or causing to be drained all those ponds of

1825.

stagnant water in the town of Louisville, and to remove or drain such other nuisances or ponds, situated below Louisville, and between that and the mouth of Salt river, and such other ponds in the vicinity of said town, as may conduce to the health of the same and its vicinity; and the said managers, or such of them as may choose to act, shall, before they enter on the duties and powers hereby created, enter into bond, in the county court of Jefferson county, jointly or severally, with security to be approved of by said court, to the Commonwealth of Kentucky, in the penal sum of sixty thousand dollars, conditioned for the faithful discharge of the duties imposed upon them by this act; which bond may from time to time be put in suit, in the name of the Commonwealth of Kentucky, by and at the cost of any person or persons injured by a breach thereof. And it shall be the duty of the managers, within eighty days after the drawing of any class or scheme of the said lottery is completed, to pay to the fortunate holder or holders of any ticket, or to his, her or their order, or to his, her or their heirs or representatives, all such prizes as may be drawn agreeable to the scheme which they may have adopted and published; and the said lottery, or any class or scheme thereof, may be drawn in the town of Louisville, or such other place as said managers, or a majority of them, may deem most expedient, giving due notice of the time and place of such drawing; and the said managers, or a majority of them, may appoint two or more discreet persons, who, in conjunction with one or more to be appointed by the trustees of the town of Louisville for the time being, shall superintend the drawing of each scheme or class of said lottery, whose duty it shall be to see that the same is fairly and impartially drawn. The persons so appointed to superintend the drawings, and such clerk or clerks as the said superintendents may appoint, shall respectively take an oath before some justice of the peace, faithfully to discharge the duties hereby created. And if any class or scheme of the said lottery shall not be completed and drawn within three years from the time such scheme or class may be adopted and published, the same shall cease and be at an end; and any person or persons who may have disbursed any money for the purchase of tickets in said class or scheme, may demand, and shall be entitled to receive back all money or moneys so disbursed, with legal interest: *Provided*, such demand shall be made within twelve months after the expiration of said three years.

To give bond.

Prizes, when to be paid.

Persons to superintend the drawing; how appointed, and their duties.

If not drawn, money to be refunded.

1825.

Where to commence draining ponds.

Sec. 3. *Be it further enacted*, That the said managers, or a majority of them, shall have power to commence draining the ponds in the town of Louisville, or its vicinity, at such place and points as said managers, or a majority of them, shall think most advantageous for accomplishing the end contemplated by said act.

[Approved, January 12, 1825.]

CHAP. 203.—An ACT to amend and explain the Penal Laws.

Preamble.

WHEREAS it hath been represented, that it has been decided by some of the Judges of the State, that so much of the act of the General Assembly, passed on the 10th day of February 1798, as provides for the punishment of voluntary manslaughter, is repealed by the first section of an act passed on the 19th day of December 1801: For remedy whereof,

Punishment for voluntary manslaughter.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That whosoever shall be convicted of voluntary manslaughter, shall be sentenced and undergo an imprisonment at hard labor and solitary confinement in the jail and penitentiary house of this Commonwealth, for any time not less than two, nor more than ten years; and for the second offence, shall be sentenced to undergo an imprisonment at hard labor in the said jail and penitentiary house, for any time not less than six, nor more than fourteen years.

Punishment for second offence.

Punishment for manslaughter committed without malice aforethought.

Sec. 2. That if any person, with intent to stab, thrust or shoot, shall stab, thrust or shoot any person, so that the person stabbed, thrust or shot shall die thereof, within six months next following, although the same be done without malice aforethought, the party offending, being convicted thereof, shall undergo a confinement in the jail and penitentiary house, for a period not less than six months, nor more than six years: *Provided always*, that any thing in this act contained shall not extend to any person who shall kill another in self defence, nor extend to any other who shall kill another by chance, in keeping or preserving the peace, so as the said manslaughter be not committed willingly, and under colour of keeping the peace.

Proviso.

First section of act of 1801, repealed.

Sec. 3. That the first section of the said act, passed on the 19th day of December 1801, shall be, and the same is hereby repealed: *Provided, however*, that this repeal shall not extend to any offence heretofore committed, which might be punishable under the said first section of said act of 1801; but as to all offences hereto.

Proviso.

fore committed, which were punishable by said first section, the said first section shall continue and be in force. 1825.

Sec. 4. That in all cases of criminal trial, where the jury shall convict the prisoner, but by mistake sentence him or her to a greater period of confinement than is provided by law, it shall be the duty of the court to pronounce judgment against such prisoner for the longest time fixed and prescribed for the offence by law. Court may correct the verdict of the jury.

And whereas it sometimes so happeneth, that owing to the great length of criminal trials, the same, although begun, are not concluded during the period prescribed by law for the session of the courts, or the jury are unable to agree in a verdict, or find their verdict against the prisoner, but the same is arrested or set aside for informality; and it hath been holden by some Judges, that in all such cases the prisoner, however guilty, is thereby discharged and exonerated from all further prosecution: For remedy whereof, Further preamble.

Sec. 5. *Be it enacted*, That where the jury shall, from any of the before mentioned causes, or any other casualty whatever, be prevented from rendering a verdict, or whenever the jury shall render a verdict of conviction, and the same shall be set aside for any cause whatever, at the instance of the prisoner, such failure to render a verdict, or arresting or setting aside a verdict of conviction, for informality in said verdict or the proceedings in the prosecution, shall operate no discharge of the prisoner; but that the court may, in all such cases, award a new *venire facias*, until a verdict shall be rendered, or direct new proceedings to be had, to commence where the first error intervened, or to try the prisoner upon a new indictment, as the case may require. The court may award a venire facias de novo, &c.

Sec. 6. That the Commonwealth shall have the same right of interrogating a venire-man, when called to the book, relative to his qualifications, as the prisoner now has. Commonw'th may interrogate veniremen.

[Approved, January 12, 1825.]

CHAP. 204.—An ACT to establish the County of Edmondsöb.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of February next, all that part of the counties of Warren, Hart and Grayson, contained in the following bounds, to wit: Beginning at the mouth of Bear Boundary.

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creek, on Green river; thence a straight line to the head spring of Little Beaver-Dam creek, on the top of the Knobs; thence with the top of the ridge of knobs, to a point opposite the widow Haley's, on the Nashville road; thence a straight line to John White's, so as to leave him in Warren county; thence a straight line to the Barren county line, at Allen Hunter's; thence with the Barren line to Flatt's old place on Green river; thence a straight line to the mouth of Dog creek, on Nolin; thence down Nolin to a point one hundred yards below the boat-yard at the mouth of Canaloway creek; thence a straight line to Hobles' old place, on Bear creek; thence a straight line, by William Allen's, to the Butler county line; thence with the Butler county line to the Warren county line; thence a straight line to the beginning, shall be one distinct county, called and known by the name of EDMONDSON.

Justices to ap-
point a clerk.

Sec. 2. The justices of the peace for the county of Edmondson shall meet at the house of Robert Bryan, in said county, on the second Monday in May 1825, and after taking the necessary oaths of office, and qualifying their sheriff, they shall proceed to appoint a clerk, in whose permanent appointment a majority of all the justices in commission in and for said county, shall concur; but if such majority cannot be had in favor of any one, that the court may appoint a clerk *pro tem*.

Courts, when
to be held.

Sec. 3. The county court for said county shall be held on the second Monday in every month, except the months in which the circuit court shall be held; and the circuit court shall be held on the second Mondays in May, August and November, and may sit six judicial days, if the business require it, and shall form a part of the eighth judicial district.

Attached to the
8th judicial
district.

Courts of War-
ren, Hart and
Grayson to re-
tain jurisdic-
tion.

Sec. 4. The circuit and county courts of Warren, Hart and Grayson, and justices of the peace therein, shall have jurisdiction, in law or equity, of all suits instituted prior to the commencement of this act.

Officers to col-
lect moneys &
execute pro-
cess.

Sec. 5. It shall be lawful for the sheriffs, constables and collectors in the counties of Warren, Hart and Grayson, to collect all moneys, and execute all process, as the law directs, which may be in their hands at the commencement of this act, and account for the same according to law.

County court
to appoint
comm'rs of tax.

Sec. 6. The county court of Edmondson shall appoint commissioners of tax for the year 1825, who shall be governed by the laws now in force on that subject.

Sec. 7. William Love, of Hardin county, Maximilian Hailey, of Barren county, Thomas Pollard, of Muhlenberg county, William Lynch, of Simpson county, and James Cunningham, of Breckinridge county, shall be appointed commissioners to ascertain and fix on the most suitable place for the permanent seat of justice of Edmondson county, who shall meet at the house of Robert Bryan, on the first Monday in February 1825, for that purpose; and after a majority shall agree on the place, they shall report to the county court, and it shall be the duty of the county court, as soon as practicable thereafter, to cause the necessary buildings to be erected, and do that which may be necessary and lawful in the establishment of a town.

1825.

Comm'rs to fix
on permanent
seat of justice.

To make re-
port to the
county court.
Duty of the
court.

Sec. 8. The commissioners aforesaid shall be entitled to the sum of two dollars per day, each, for every day they shall be necessarily employed in the discharge of the duties assigned them by this act, to be levied for their benefit, at the first laying of the county levy. The courts for the county of Edmondson shall be held at the house of Robert Bryan, until the necessary buildings are erected.

Allowance to
commissioners,
and how paid.

Courts, where
to be held.

Sec. 9. The county of Edmondson shall be entitled to nine justices of the peace; and the voters residing within the limits of the county of Edmondson, shall vote for members of the Legislature, members of Congress, and all other elective officers, as they did previous to the passage of this act.

Said county
entitled to nine
justices of the
peace.
Regulation as
to voting.

[Approved, January 12, 1825.]

CHAP. 205.—An ACT to change the times of holding the circuit and county courts of Meade, and the circuit courts of Grayson county.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That the circuit court for the Grayson circuit, shall commence on the fourth Monday in April, and sit six juridical days, if the business shall require it.

Grayson cir-
cuit court.

Sec. 2. That the circuit court for the circuit of Meade. Meade, shall commence on the first Monday in May, the second in July and the third Monday in September, and continue at each term six juridical days, if the business shall require it.

Sec. 3. That the county courts for Meade county shall commence on the first Monday in each month, except the months in which the circuit court is holden.

Meade county
court.

(Approved, January 12, 1825.)

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CHAP. 206.—An ACT to authorize the sheriff of Oldham county to collect the muster fines of that part of the 38th regiment of the militia, which now composes a part of the 117th regiment.

Certain fines
to be collected
by sheriff of
Oldham.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky*, That all the fines assessed in the 38th regiment of Kentucky militia, for the years 1823 and 1824, on persons living in Oldham county, shall be listed with the sheriff of said county on or before the first day of March next, by the colonel of the said 38th regiment, and the said sheriff shall receipt for and collect and account for the same to said regiment, under the pains and penalties now prescribed by law.

Amount, after
paying debts,
to be divided
between the
38th and 117th
regiments.

Sec. 2. That when all debts contracted by said 38th regiment before the passage of this act, are paid, the residue of the funds on hand, shall, if any, be equally divided, and one half paid over by the paymaster of the 38th regiment, to the paymaster of the 117th regiment.

If not sufficient
to pay debts,
one half of de-
ficit to be paid
by 117th reg't.

Sec. 3. That in case the fines so collected shall, when added to other funds belonging to the 38th regiment, not amount to a sufficient sum to pay all debts of said 38th regiment, contracted before the passage of this act, then said 117th regiment shall, when they have funds to enable said regiment to do so, pay one half of the deficit to said 38th regiment.

[Approved, January 12, 1825.]

CHAP. 207.—An ACT for the benefit of Thomas M'Jilton and John Beatty.

Preamble.

WHEREAS it is represented that Thomas M'Jilton, in 1822, obtained from the Register a land-warrant for four hundred acres of land, which he has casually lost: Therefore,

Register to is-
sue warrant to
T. M'Jilton.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That on the application of the said Thomas M'Jilton, the Register shall be, and he is hereby authorized and directed to issue to him a new warrant for four hundred acres, which may be located on any vacant land subject to location at the date of the original warrant.

Preamble.

And whereas it is further represented, that John Beatty, of the county of Pulaski, has lost, by an elder and superior claim, sixty-five acres of land, part of a two hundred acre survey, founded upon a commissioners' certificate, number 458, upon which the sum of nine dollars has been paid, and that the said John Beatty is

anxious, by paying the State price, to carry the residue of the said survey into grant:

1825.

Sec. 2. *Be it further enacted*, That upon the said John Beatty paying into the public Treasury the State price upon one hundred and thirty-five acres, the remaining part of the aforesaid survey, after applying thereto the nine dollars heretofore paid, and producing to the Register of the land-office the Auditor's quietus therefor, together with a survey of the part not lost as aforesaid, it shall be lawful for the Register to issue a patent thereon to the said John Beatty, as in other cases.

Register to issue a patent to John Beatty.

[Approved, January 12, 1825.]

CHAP. 208.—An ACT to authorize the purchase of certain law books.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the Secretary of State be, and he is hereby authorized to purchase such law books not now in his office, as are or may be authorized to be distributed by him to the clerks or other officers of this Commonwealth, by the acts of the present General Assembly; and the Auditor, on the production of the Secretary's receipt therefor, shall issue his warrant for the amount thereof upon the Treasurer: *Provided*, that the Secretary shall not give more for such books than has heretofore been paid for the Reports of the decisions of the Court of Appeals.

Secretary of State to purchase certain law books.

[Approved, January 12, 1825.]

CHAP. 209.—An ACT for the benefit of Zachary Conclude.

WHEREAS it is represented to this General Assembly, that Isaac, a free man of colour, lately deceased, did, in his lifetime, purchase from his master, Benjamin L. Dorsey, his son, the said Zachary, but died intestate, without having liberated the said Zachary, whereby he, the said Zachary, becomes liable to be escheated and taken as the property of the State:

Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky, That all the right, title and claim of this Commonwealth, of, in and to the said Zachary, be released to him, said Zachary, and that he henceforth be considered, taken and held, as a free man of colour, and is hereby made and rendered capable of taking and inheriting from his father, the said Isaac, any property of which he may have been possessed, and

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which he owned at his death, and to maintain all such actions at law or suits in equity, usually maintainable by other free men of colour.

[Approved, January 12, 1825.]

CHAP. 210.—An ACT for the benefit of Frances Reynolds and her five idiot sons, and Col. R. Patterson.

Recital.

WHEREAS it is represented to this General Assembly, that Frances Reynolds, widow of Joseph Reynolds, deceased, is settled on the public lands of this Commonwealth, in the county of Graves; that she is poor, and has a large and helpless family of fourteen children, five of whom are idiots; and she having prayed this Legislature to grant her a quarter section of land, in lieu of the provision now made by law, for persons of unsound mind: Therefore,

Register to issue a patent to Mrs. Reynolds, for a certain piece of land.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That on producing to the Register of the land-office satisfactory proof of the quarter section on which she has settled and improved, in township three north, and range one east of the principal meridian, any time at least one month before the time appointed by law for the sales of public land west of Tennessee river, it shall be the duty of the Register aforesaid, and he is hereby authorized to issue a patent for the same to the said Frances Reynolds, and at her death it shall descend to her five idiot sons, viz. William, Osborn, Jackson, George and Thomas Reynolds, or in case of the death of either, to their survivors.

Recital.

And whereas it is further represented, that Col. Robert Patterson has settled upon a fractional quarter section, containing between fifty and sixty acres of land in Calloway county, and from misfortunes and decrepitude, is unable to pay the State price for the same: Wherefore,

Register also to issue a patent to R. Patterson.

Sec. 2. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That on producing to the Register of the land-office, satisfactory evidence of the fractional quarter section which he has settled and improved, at least one month before the time appointed by law for the sales of the public lands west of the Tennessee river, it shall be the duty of the Register aforesaid, and he is hereby authorized to issue a patent for the same to the said Robert Patterson, his heirs or assigns.

[Approved, January 12, 1825.]

CHAP. 211.—An ACT to apply the net profits of the Bank of the Commonwealth, for the year 1825, in aid of the public revenue, and for other purposes.

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SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the president and directors of the Bank of the Commonwealth, are hereby directed to pay into the public Treasury, the whole amount of the net profits of said Bank, accruing for the present year; that is, from the 10th day of October, 1824, until the 10th day of October, 1825, and also the interest on the literary fund, to be derived during the same period; which moneys, are to be applied in aid of the public revenue, together with the moneys arising from the sale of the present year, of the vacant lands of this Commonwealth.

Net profits of the Bank applied in aid of the revenue.

Sec. 2. *And be it further enacted,* That so much of the act entitled "an act to establish a literary fund, and for other purposes," approved December the 18th, 1821, as applies one half of the net profits of the Bank of the Commonwealth, to the purpose of raising that fund, is hereby suspended in its operation, for and during the period above mentioned, and no longer: *Provided,* that nothing in this act contained, shall affect special appropriations heretofore made by law, out of that part of the profits of the Bank of the Commonwealth, not set apart as a literary fund: *And provided furthermore,* that nothing in this act contained, shall, in any manner, affect, alter or change, any appropriation made at the present session of this General Assembly, in favor of the State Hospital at Louisville.

Act providing a literary fund, suspended for one year.

Proviso.

Sec. 3. *Be it further enacted,* That the several commissioners of the tax shall, hereafter, in taking in the lists of taxable property, enquire of each individual listing his property, to state upon oath whether he owns any stock in the Bank of the United States, and, if any, what amount; which the said commissioner shall list as other property; and it shall be the duty of the several sheriffs, to collect from the individual or individuals owning stock as aforesaid, twenty-five cents upon each share, and which shall be accounted for by the sheriffs as other taxes.

U. S. Bank stock taxed 25 cents per share.

[Approved, January 12, 1825.]

CHAP. 212.—An ACT for the benefit of Betsey Justice.

WHEREAS it is represented to the present General Preamble. Assembly, that Frederick Justice brought a suit in

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chancery in the Allen circuit court, against Betsey Justice, his wife, for a divorce; and that the said Betsey was advised and induced to believe, by the counsel bringing said suit, that the marriage contract would be set aside and dissolved, and that she would be released from said marriage; that under this belief, she permitted him to draw up her answer, which was filed in said suit, thereby discharging him from the marriage only: Therefore,

Divorced from
her husband.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Betsey Justice be, and she is hereby exonerated from said marriage on her part; and that the said Betsey be, and she is hereby restored to all the rights and privileges of a *feme sole*.

[Approved, January 12, 1825.]

CHAP. 213.—An ACT to provide for the sale of all the manufactured articles now on hand in the Penitentiary and Agent's office.

Preamble.

WHEREAS the time for which the Agent of the Penitentiary was appointed, has expired, and that office is now vacant, and it appears to the present General Assembly, that some change in the government of said institution is necessary, and that the articles manufactured in that institution, which remain on hand, should be speedily disposed of, to defray the expences of said institution: Therefore,

Governor to
nominate an
Agent, and his
duties.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That on the passage of this act, it shall be the duty of the Governor to nominate some fit person as Agent, to be approved of by the Senate, whose duty it shall be, when appointed, to proceed to sell at auction, all the manufactured articles now on hand in said institution, or in the office of the Agent or sub-agents, under the direction of the Governor, for ready money, or on such credit, not exceeding twelve months, as may to him appear most to the interest of this Commonwealth, having advertised the time and place of said sale, for at least eight weeks, in the following newspapers, to wit: The Argus of Western America; the Reporter and Gazette, printed at Lexington; the Morning Post, printed at Louisville; Richmond Republican, printed at Richmond; and the Kentucky Republican, printed at Hopkinsville; and the proceeds of all the articles sold under the provisions of this act, shall be paid to the Auditor of public accounts, who shall receipt to the Agent for the same.

Sec. 2. *Be it further enacted*, That the Agent appointed under the provisions of this act, shall, before he enters on the duties of his office, enter into bond with sufficient security, to be approved of by the Governor, in the penal sum of twenty thousand dollars, payable to the Commonwealth of Kentucky, for the faithful performance of all the duties assigned him under the provisions of this act; and shall, in addition to the oath now prescribed by the constitution of the United States and of this State, swear or affirm, that he will well and truly discharge the duties of Agent, as herein provided, and that he will pay over all the money which may come into his hands, from time to time, as in this act directed, and shall receive for his services four dollars per day, for every day he may be necessarily engaged in selling and transacting the business of the Penitentiary, under the provisions of this act.

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Agent to give bond and take an oath.

His compensation.

Sec. 3. *And be it enacted by the authority aforesaid*, That the Agent appointed under the provisions of this act, shall appoint one clerk, to be approved of by the Governor, to assist him in keeping the accounts, giving receipts, and all other duties which may be enjoined on him, under the provisions aforesaid.

May appoint a clerk.

Sec. 4. *Be it further enacted*, That the Agent hereby directed to be appointed, shall receive from the present Keeper, all the bedding and cooking utensils, and deliver them over to Joel Scott, when he takes possession, and take his receipt therefor, which shall be filed with the Auditor; which receipt shall cancel said Keeper's receipt, now filed in said office: *Provided, however*, this act shall not, in any wise, operate so as to deprive the late Keeper of the Penitentiary of his per centum upon the articles manufactured during his administration.

Further duties of the Agent.

Proviso.

Sec. 5. *Be it further enacted*, That said Agent is hereby required to make a final settlement with the building commissioners, John Brown, Charles Julian and James Wight, (appointed by an act of the Legislature to enlarge the Penitentiary,) and pay over to the Auditor the balance of money found in the hands of the commissioners unappropriated, and take his receipt, except six hundred dollars hereby allowed to said commissioners, for the superintendence of the work; also, allow J. Wight forty-two dollars for guard hire over the convicts in the quarry; and to receive all the tools belonging to the State, in the hands of the commissioners, and dispose of them as above; to receive and receipt for, from the

Agent to settle with the building commissioners, &c.

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former Agent, all the papers and books in relation to the Penitentiary.

[Approved, January 12, 1825.]

CHAP. 214.—An ACT concerning the Greensburg Independent Bank.

Preamble.

WHEREAS it is represented to this General Assembly, that the directors of the Greensburg Independent Bank, did erect a house in said town for the use of said institution, on a lot of ground which has been conveyed to the stockholders of said Bank, and they being desirous that the said house and lot of land should be sold: Therefore,

Commissioners may sell and convey banking house, &c.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the commissioners appointed by the stockholders of said Bank, agreeably to an act of Assembly approved February 14th, 1820, be and they are hereby authorized, whenever they shall receive the consent of the stockholders aforesaid, in writing, or a majority of them, to sell and convey the said house, and lot of land on which it stands, for the best price that can be gotten, on a credit or for ready money, as the said commissioners, or a majority of them, shall think most advantageous to the stockholders, who shall be entitled to the proceeds of the sale, in proportion to the number of shares each stockholder may have in said Bank.

To take bond of purchaser.

Sec. 2. *Be it further enacted*, That if the said commissioners shall sell said house and lot of land on a credit, they shall take bond or bonds of the purchaser or purchasers, with sufficient security, to be approved of by the said commissioners or a majority of them; which bond or bonds, shall be made payable to the said commissioners, for the benefit of the stockholders aforesaid, in the proportion mentioned in the first section of this act.

Proceeds, how divided.

Notes of said bank, when to be presented.

Sec. 3. *Be it further enacted*, That the holder or holders of the notes of the aforesaid Bank, shall, on or before the first day of January, 1827, present the aforesaid commissioners such note or notes for payment; and in case said notes be not presented on or before the time aforesaid, it shall be optional with said commissioners to redeem the same, any law to the contrary notwithstanding.

Farmers & Mechanics' Bank

Sec. 4. *And be it further enacted*, That the Farmers and Mechanics' Bank of Lexington, shall have the fur-

ther time of five years to close and wind up its business, under the same rules and regulations, and subject to the same restrictions as are imposed on individuals, any law to the contrary notwithstanding.

This law shall be in force from and after its passage.

[Approved, January 12, 1825.]

1825.
of Lexington to have further time to close its business.

CHAP. 215.—An AGT to amend an act entitled “an act concerning Kentucky land-warrants which may have been lost.”

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That the act entitled “an act concerning Kentucky land-warrants which may have been lost,” approved January 3d, 1825, shall be so construed as to embrace Kentucky land-warrants or surveys, which may have been lost before the passage of said act, as well as those lost thereafter.

[Approved, January 12, 1825.]

CHAP. 216.—An AGT for the appropriation of Money.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That the following sums be, and they are hereby allowed to the persons hereinafter mentioned, to be paid out of any money in the treasury not otherwise appropriated, to wit:

To the Speakers of the Senate and House of Representatives, four dollars per day, each.

Appropriation to the Speakers,

To the Clerks of the Senate and House of Representatives, sixty dollars per week, each.

Clerks,

To the Clerks of the committees of the Senate and House of Representatives, twenty-one dollars per week, each.

Committee clerks,

To the Sergeant-at-arms of the Senate and House of Representatives, twenty-four dollars per week, each.

Sergeant-at-arms,

To the Door-keepers of the Senate and House of Representatives, twenty-four dollars per week, each.

Door-keepers,

To the Clerks of the Senate and House of Representatives, for four days' services, at the rate of sixty dollars per week, each, in addition to the number which the Legislature may be in session; which time they will necessarily be employed in completing the Journals, preparing the Acts for publication, and arranging and filing their papers.

Clerks,

To the Clerk of the House of Representatives, clerk hire, forty-two dollars per week, during the present session.

Clerk H. R.

1825.

Assistant clerk
of Senate,A. Kendall and
Co.

J. H. Holeman,

W. Wood and
A. C. Keenon,

R. Devine,

L. Batchelor,

Regis and Bob,

A. C. Keenon,

James Wight,

Wight and
Ratliff,

To the assistant Clerk of the Senate, twenty-four dollars per week, during the present session.

To Amos Kendall and Co. public printers, nine hundred and eighty-two dollars and twenty-two cents, in full for their services as printers up to this time, as per account rendered; also, twelve hundred dollars in advance for the ensuing year.

To Jacob H. Holeman, public printer, nineteen hundred and seventy-six dollars and fifty-one cents, in full for his services as printer up to this time, as per account rendered.

To William Wood and Adam C. Keenon, for binding one thousand copies, each, of the Acts of the present General Assembly, three hundred dollars each; also, fifty dollars each, for binding one hundred copies, each, of the Journals of the present session; one half of which sums shall be paid in advance, and the balance upon their producing to the Auditor, the Secretary's certificate of the delivery of the number of copies hereby authorised to be bound by each of them: *Provided*, that if the full number of copies allowed to be bound by each of the persons above named, shall not be furnished the Secretary, a deduction, at the rate of thirty-three and a third cents for each copy of Acts, and fifty cents for each copy of the Journals so wanting, shall be made.

To Roger Devine, two hundred and seventy-eight dollars and twenty-five cents, as per account rendered; also, eighty dollars, for providing fuel, furnishing water, &c. for the House of Representatives, during the present session; also, eighty dollars, for a like service, which was not drawn last session.

To Littleberry Batchelor, for providing fuel, furnishing water, &c. for the Senate, during the present session, eighty dollars.

To Regis and Bob, (negro men,) for services rendered the Legislature during the present session, fifteen dollars each.

To Adam C. Keenon, for folding and stitching certain documents, &c. for the Senate, forty dollars, as per account rendered.

To James Wight, for repairing the Governor's house, three hundred and twenty-eight dollars and sixty-three cents, as per account rendered.

To James Wight and William Ratliff, for repairing Senate and House of Representatives chambers, four hundred dollars and fifty cents, as per account rendered.

To Henry Wingate, for taking down State-house chimneys, and performing certain duties in the Senate chamber, sixty dollars.

1825.

H. Wingate,

To James Wight, for carpeting and bagging furnished the Representatives chamber, two hundred and twenty-eight dollars and ten cents, as per account rendered.

James Wight,

To Epperson and Vest, for hanging bell, cutting two doors, &c. &c. sixteen dollars.

Epperson and Vest,

To Preston W. Brown, for one settee furnished the Representatives chamber, fifteen dollars, as per account rendered.

P. W. Brown,

To Evans and Blanton, for building chimneys, furnishing materials, &c. for the Representatives chamber, three hundred and thirty-eight dollars and fifty cents, as per account rendered.

Evans and Blanton,

To Robert Miller, (black man,) for putting up stoves in the Representatives chamber, ten dollars, as per account rendered.

R. Miller,

To Evan Evans, for arching-bars furnished the House of Representatives, fifteen dollars eighty-seven and a half cents, as per account rendered.

Evan Evans,

To Griffin Butler, for washing windows, one dollar and fifty cents.

G. Butler,

To the Editors of the Argus and Commentator, for papers furnished the members of the Legislature during the present session, fifty dollars each.

Editors of the Argus & Commentator,

To the Rev. William Holeman, for preaching to the convicts in the Penitentiary, from October 1823 until the present time, one hundred dollars.

Rev. William Holeman,

Sec. 2. That James I. Miles, Agent of the Penitentiary, be allowed the sum of one hundred dollars, in his settlement with the Auditor, in full for his services in furnishing the different persons authorised to receive the same, with the various articles heretofore appropriated by the Legislature.

James I. Miles,

To Jacob H. Holeman, for making an Index to the Acts of 1823, fifteen dollars, as per account rendered.

J. H. Holeman,

To the commissioners appointed to examine the situation of the Penitentiary, twenty-five dollars each, as per account rendered.

Comm'rs to examine Penitentiary.

To G. E. Russell, for stationary furnished the Senate and House of Representatives during the present session, three hundred ninety-eight dollars fifty cents, as per account rendered.

G. E. Russell,

To Harry Mordecai, for sundry repairs, plaistering, &c. done to the Senate chamber, forty dollars, as per account rendered.

H. Mordecai.

1825.
 W. Wood, To William Wood, for stationary furnished the Senate and House of Representatives, and for folding and stitching sundry documents of the House of Representatives, two hundred and sixty-three dollars, per account rendered.
- T. Bodley, To Thomas Bodley, fifty-one dollars, for a bell furnished the Sergeant-at-arms, for the use of the House of Representatives.
- John Taylor, To John Taylor, for acting as door-keeper to the committee raised to investigate the charges exhibited against Judge Robbins, forty-two dollars, being fourteen dollars per week for three weeks.
- Committee to examine Trans- To the joint committee appointed to visit and examine the Transylvania University and Lunatic Hospital at Lexington, eighty-three dollars.
- A. W. Dudley and Co. To A. W. Dudley and Co. for merchandize furnished for the use of the Senate and House of Representatives, twenty-two dollars eighty-seven and a half cents, as per account rendered.
- Adj't-General, To the Adjutant-General, for the rent of an office for the last year, fifty dollars.
- Joseph Smith, To Joseph Smith, for carpeting furnished for the use of the Senate and House of Representatives, fifty-nine dollars eighty-seven and a half cents, as per account rendered.
- G. Miles, To Charles Miles, for merchandize furnished for the use of the Senate and House of Representatives, fourteen dollars sixty-nine cents, per account rendered.
- C. Henderson, To Charles Henderson, for sundry articles of merchandize furnished for the use of the Senate and House of Representatives, thirteen dollars thirty-seven and a half cents, as per account rendered.
- L. Batchelor, To L. Batchelor, for sundry articles furnished for the use of the Senate chamber, as per account rendered, sixty-three dollars and forty-three cents.
- Isaac Stanley, To Isaac Stanley, for work done to the State-house, setting up stoves, &c. as per account rendered, sixty-four dollars and fifty cents.
- State of Ohio, To the State of Ohio, to be paid to the Treasurer of said State, seventy-three dollars and eighty-four cents in specie, money advanced by said State to defray the expences incurred in arresting Isaac Hill, a fugitive from the justice of this State, and in compliance with the demand made by the Governor of this State upon the Governor of Ohio, to be drawn by the Governor and transmitted to said State.

To Joseph Taylor, for powder and music furnished for a national salute on the morning of the 8th instant, as per account rendered, twenty-eight dollars. 1825.

Jos. Taylor,

To Joseph Desha, for sundry articles of furniture purchased for the use of the Governor's house, one hundred and ninety dollars, as per account rendered. Joseph Desha,

To Richard Hawes and Co. for two ten plate stoves for the use of the Legislature, eighty dollars, as per account rendered. R. Hawes and Co.

To S. Randegger, for one stove and pipe furnished the Sergeant-at-arms for the use of the Legislature, sixty dollars, as per account rendered. S. Randegger,

To Richard Taylor and Harry Mordecai, for hauling gravel to the Capitol lot, as per account rendered, twenty-four dollars. R. Taylor and H. Mordecai,

To Richard Taylor, for stonecoal furnished for the use of the Legislature, and for carriage paid on stoves and pipes from Lexington, as per account rendered, twenty-three dollars. R. Taylor,

To M. Fishel, for sixty-seven pounds of stove-pipe furnished the Sergeant-at-arms of the House of Representatives, for the use of the Legislature, as per account rendered, thirty-four dollars. M. Fishel,

To Richard Taylor, Sergeant-at-arms of the House of Representatives, for summoning witnesses, at the present session of the Legislature, in the cases of the Commonwealth against Judge Robbins, and the same against Elijah Hayden, as per account rendered, three hundred and fifty-two dollars and fifty cents. R. Taylor,

To Philip Greenwell, for glass furnished, and glazing and painting done to the Senate chamber and House of Representatives, twenty-four dollars fifty-six cents, as per account rendered. P. Greenwell,

Sec. 3. *Be it further enacted*, That Samuel Allen, former sheriff of Breckinridge county, be allowed the sum of seventeen dollars, for services heretofore rendered to the Commonwealth of Kentucky. Samuel Allen,

Sec. 4. That the Auditor of public accounts be, and he is hereby authorised to audit and settle the account of Jacob H. Holeman, for printing the balance of the Journals of this house, agreeable to the price which has heretofore been allowed by law, commencing his calculations at page 366: *Provided*, that the said Holeman shall produce to the Auditor the certificate of the Secretary of State, that the said Journals have been delivered into his office. J. H. Holeman,

1825.

B. B. Pollard, To Benjamin R. Pollard, as engrossing and enrolling Clerk of the Senate, twenty-four dollars per week, from the 9th of December to the end of the present session.

Q. M. General, To the Quartermaster-General, fifty dollars, for office rent during the last year.

A. Crockett, To Anthony Crockett, for one copy of Munsell's Map of Kentucky, as per bill rendered, twenty dollars.

A. Crockett, To Anthony Crockett, for summoning witnesses, for use of wagon and team, and wood furnished the Senate during the present session, as per account rendered, three hundred and thirty-seven dollars.

G. Hutcheson, To Charles Hutcheson, for a press furnished for the use of the Senate chamber, by order of the Senate, twenty-five dollars, as per account rendered.

S. Randegger, To Sebastian Randegger, for making a machine, by order of the Quartermaster-General, for cleaning the public arms, one hundred and fifty-five dollars.

N. Heizer and J. Findley. To Nathaniel Heizer and John Findley, for apprehending Abraham Clarke, a fugitive from justice, and conveying him from the State of Indiana to Green county for trial, and paying guards and other expences, the sum of forty dollars.

S. South. To Samuel South, the sum of forty dollars, for expences incurred by him in effecting an exchange of money for Robert and Thomas Roche.

[Approved, January 12, 1825.]

CHAP. 217.—An ACT to amend an act entitled “an act to revive and amend the Champerty and Maintenance Law, and more effectually to secure the bona fide Occupants of Land within this Commonwealth.”

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That hereafter, the court rendering judgment of eviction against any *bona fide* and innocent seater, occupant or cultivator of land, or in case the claimant shall assert his claim in equity, then the court rendering decree against any such occupant, cultivator, seater or improver, shall, on request of either party, order and direct the clerk of said court to issue a *venire facias*, directed to the sheriff of the county in which the land may lie, commanding the said sheriff to summon a justice of his county, as well as to summon and empanel a jury of twelve able and discreet freeholders of the vicinage, who are in no wise interested or of kin to either party, to meet upon the

A jury may be empannelled to assess the value of improvements, &c.

1825.

premises from which the occupant is about to be evicted, on a day to be designated in said writ, who, at the request of either party, shall go upon the land from which the occupant is about to be evicted, and from the view of the said jurors, aided by such testimony as may be produced before them by either party, the said jury shall make assessment of damages done to the land, and unnecessary waste of timber, after suit brought, and of rents and profits accruing after judgment or decree as aforesaid, also of the value of improvements upon the land from which the occupant is about to be evicted; all of which assessments and valuations the said jurors shall separately find and distinctly specify in their verdict; and if the inquest and finding of the jury cannot be completed in one day, the justice shall adjourn the jurors from day to day, until their inquest and finding is completed; which inquest and finding, being signed and sealed by said jurors, together with the *venire facias*, shall be returned to the court: *Provided, however*, that either party shall have the right of peremptory challenge, and the right to object for cause shown, against any of the jury summoned, as is at present allowed by law in other civil cases.

Proviso.

Sec. 2. *Be it further enacted*, That after the said jurors shall have been duly summoned, elected and tried, the said justice of the peace shall administer to the said jurors the following oath or affirmation: "You, and each of you, do solemnly swear, (or affirm,) that you will impartially, and to the best of your skill and judgment, faithfully execute the duties required by the provisions of this act." A certificate of such oath or affirmation shall be made out by the said justice, and by him returned to the court.

Jurors to take an oath.

Sec. 3. *Be it further enacted*, That the court to which such inquest and finding of the jury shall be returned, for just exception to such inquest and finding, may set aside the same, and order another *venire facias* to issue, to be proceeded upon as herein before directed.

Court may set aside the finding of the jury.

Sec. 4. *Be it further enacted*, That it shall be the duty of the clerk of the court to which such inquest and finding shall be returned, to make out one copy for each and every party, to be delivered upon request; but the court shall not act thereon, until it shall appear to the court that the parties have had at least ten days' notice of the court to which the inquest and finding of the jury would be returned, or are both present in court, or

Clerk to furnish copies of inquest.

1825.

until the court succeeding the coming in of such inquest and finding of the jury.

Clerk to issue
subpoenas for
witnesses.

Sec. 5. *Be it further enacted*, That in order to enable either party to avail himself of the benefit of the testimony of any witness or witnesses, which he may think proper to offer in evidence before the said jury, it shall be the duty of the clerk of the court who issued the *venire facias*, on the request of either party, to issue subpoenas to compel the attendance of witnesses before such jury, who, after being duly sworn by the said justice, to give evidence before said jury, either party may examine them before the said jury, relative to any fact whereof they are required to make report. The jury shall have a reasonable allowance for their services, at the discretion of the court, to be paid by the party applying for said jury. During the taking of such inquest of the jury, the justice attending said jurors, shall preside, maintain order, and punish contempts.

Allowance to
jury.

Duties of the
justice.

Court to enter
judgment.

Sec. 6. *Be it further enacted*, That it shall be the duty of the court before which such inquest and finding shall be returned, (and after the same is confirmed and established,) to enter judgment or decree (as the case may be) in favor of the occupant, cultivator, seater or improver, against the successful claimant, for such sum or sums of money as may appear to be due to any such occupant, cultivator, seater or improver, with direction that the judgment or decree shall bear interest until paid.

Occupant may
hold possession
until improve-
ments are paid
for.

Sec. 7. *Be it further enacted*, That the occupant, seater, cultivator or improver against whom judgment of eviction shall have been entered, shall remain in the possession of the land and improvements, free of any charge for rents and profits, (but in that case he shall not receive interest on his judgment or decree,) until such occupant shall have received from the successful claimant the full amount of any such judgment or decree, that may be rendered in favor of such occupant, seater, cultivator or improver; and, moreover, the occupant or person entitled to such judgment or decree, shall have and hold a lien on the land thus recovered of him, for the amount of any such judgment or decree.

Lands forfeited
for failure to
list for taxation
to vest in the
Commonwealth.

Sec. 8. *Be it further enacted*, That in all cases where any lands shall hereafter be forfeited, for failing to list for taxation, or stricken off to the State, the title of such lands shall vest in this Commonwealth, by virtue of this

Act, without any inquest of office found, unless said lands shall have been redeemed according to law: *Provided, however,* such forfeiture shall not invalidate the title of any person or persons who may have a different claim to the same lands, who shall list and pay the taxes thereon agreeably to law: *Provided, nevertheless,* that if any person or persons entitled to such redemption, shall be, or were under the age of twenty-one years, *feme covert, non compos mentis*, imprisoned, or out of the United States, upon the business of this State or the United States, when such land was so stricken off, every such person or persons shall have two years to redeem said land, after their respective disabilities are removed, or the death of the person so disabled, if such death happens before the removal of the disability.

1825.

Proviso.

Further proviso.

Sec. 9. *Be it further enacted,* That upon the trial of any cause, either at law or in chancery, now depending or hereafter to be commenced in any of the courts of the United States, for the recovery of the possession or seizin of any land in this State, the defendant or defendants shall have the liberty to put in issue the fact that the taxes have not been paid on said land, to a period at least within one year of the time of trial; and upon the court or jury, according to the tribunal which shall try the fact, finding that the taxes have not been paid as above stated, the said land then in suit, so far as it respects the title of the plaintiff, demandant or complainant, shall, that instant, be forfeited and vested in this State, absolutely and unconditionally, without any further finding. And to ascertain the amount of tax due on said land, the following rule shall be observed: If the plaintiff, demandant or complainant shall claim the whole tract patented, then the tax due on the whole tract; if only a part of the land patented, then the tax due on the whole tract, up to the first subdivision of the entire tract, and then in the same manner upon each subdivision of the tract, until the title shall vest in the plaintiff, demandant or complainant, as the case may be.

Defendant may plead that the taxes have not been paid, and the jury finding that fact, the land vested in the Commonwealth, &c.

Sec. 10. *Be it further enacted,* That if it shall appear on such trial at law, that the claim of such plaintiff or demandant to the land in controversy, has been forfeited or stricken off to the State, under any law thereof, a verdict shall be found for the defendant, unless the plaintiff or demandant shall prove that said land has been redeemed according to law.

Judgment shall be for defendant, when the lands have been stricken off to the state, &c.

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Defendant
may put that
fact in issue, in
his answer in
chancery.

Sec. 11. *Be it further enacted*, That in all cases where any suit in chancery has been, or shall hereafter be commenced, in which the title to lands is involved, it shall be lawful for the defendant in such suit, by answer or plea, to put in issue the fact, whether the complainant or complainants have listed the lands claimed, for taxation, agreeably to law, or whether, if listed, the taxes have been paid thereon; and if it shall appear that the same has not been duly listed for taxation, or that the taxes have not been duly paid, the bill of the complainant or complainants shall be dismissed with costs, unless the complainant or complainants shall prove that said land has been redeemed according to law.

Reviving
clause.

Sec. 12. *Be it further enacted*, That the provisions of the tenth section of the act to which this is an amendment, approved the 7th day of January, 1824, shall apply to the provisions of this act, as fully as if the same were again re-enacted.

Occupant may
give in evi-
dence, under
the general is-
sue, a former
finding of a ju-
ry against the
plaintiff, &c.

Sec. 13. *Be it further enacted*, That in all actions of ejectment, and real actions, in which the plaintiff or plaintiffs, or his or their lessor, shall rely upon a title adverse to that under which the defendant or defendants claim or possess the land in controversy, and where the plaintiff or plaintiffs, or his, her or their lessor or lessors, or the claimant or claimants, shall not have had previously the actual occupancy and possession of the said land, it shall be competent for the defendant or defendants, under the general issue, to give in evidence and rely upon the verdict of a jury and judgment of the court upon such finding of a jury against the plaintiff or plaintiffs, or his or their lessor, or those under whom he, she or they claim, in favor of the defendant or defendants, or those under whom he, she or they claim, for the same land in controversy, or any part of it; and such judgment, in the cases aforesaid, shall be a complete bar to a recovery of so much land, the title to which may be shown to have been previously litigated and tried in a former suit or action. But it shall be the duty of the defendant or defendants wishing to avail himself or themselves of the provisions of this section of this act, at the time of filing his or their plea, to file and cause to be noted on the record, a notice of his or their intention to rely upon such former finding and judgment, in which shall be stated the names of the parties and the court in which such judgment was rendered, and the term of the court at which the same was

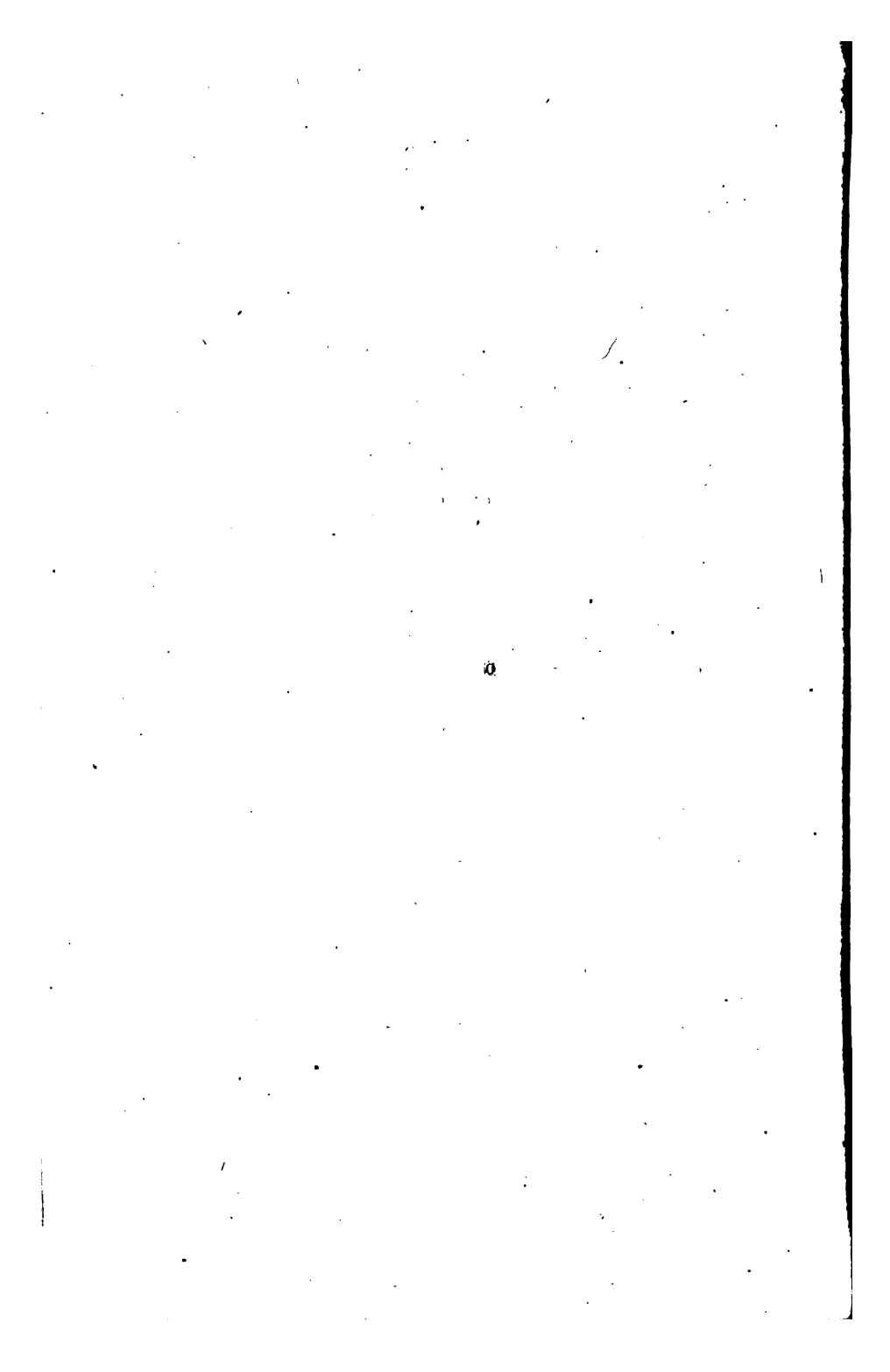
1825.

so rendered: *Provided always*, that nothing in this act contained shall in any manner be construed to extend to any cases, except those in which the parties litigant shall set up claim, or hold the lands in question under claims originally adverse to each other: *And provided further*, that nothing in this act contained shall be construed to repeal or impair the jurisdiction of chancery in all other cases: *Provided, however*, that the eighth section of this act shall not take effect until the first day of August next, until which time, all persons whose lands are or may be forfeited, for failing to list the same for the payment of taxes, or for the non-payment of taxes, shall have a right to list their lands with the Auditor of public accounts, and to pay all or any money or sums of money, which may be due on said lands for the taxes; and until which time any plaintiff or plaintiffs, or complainant, who shall not have paid the taxes due thereon, shall have a right to continue their suits brought for their lands, nor shall any such suit be tried sooner, unless with the consent of the defendant or defendants; and it shall be the duty of the Auditor to receive and give a *quietus* for all such arrearages so paid; but the privilege given in this proviso, shall not apply to cases where the land has been stricken off to the State, and the time of redemption has expired: *And provided further*, that the provisions of this act shall not apply to any judgment in ejectment or decree in chancery heretofore rendered, or injunction now pending; but the same shall be governed by the act to which this is an amendment.

Proviso.

Not to take effect until 1st August next, until which time, suits to be continued.

[Approved, January 12, 1825.]



RESOLUTIONS.

A RESOLUTION fixing on a day for the election of a Senator to represent this State in the Congress of the United States.

Resolved by the General Assembly of the Commonwealth of Kentucky, That they will, on Friday the 5th day of this instant, proceed by the joint vote of both branches of the General Assembly, to elect a Senator to serve in the Congress of the United States, in the place of Mr. Isham Talbot, our present Senator, whose term of service will expire on the fourth day of March next.

[Approved, November 5, 1824.]

RESOLUTIONS appointing committees to enquire into the cause of the destruction of the Capitol, and for other purposes.

Resolved by the Senate and House of Representatives, That a joint committee of three from the Senate and six from the House of Representatives, be appointed to enquire into the cause of the late afflicting event, the destruction by fire of the Capitol of this State.

Resolved further, That a committee of three from the Senate and six from the House of Representatives, be appointed to examine into the situation of the books and papers belonging to the different offices and to the Commonwealth; and that they be authorized to make such arrangements for their future preservation, as circumstances may require.

Resolved further, That a committee of three from the Senate and six from the House of Representatives, be appointed to examine in the town of Frankfort, what house or houses can be procured for the accommodation of the present General Assembly.

[Approved, November 5, 1824.]

A RESOLUTION for appointing a joint committee to visit Transylvania University and the Lunatic Asylum, at Lexington, and examine the accounts of the same.

Resolved by the General Assembly, That a committee, to consist of four members of the House of Representatives and of two members from the Senate, be appointed to proceed to Lexington to examine into and report to the Legislature the condition of Transylvania University, the state of her receipts and disbursements since the last examination made by the committee of the Legisla-

RESOLUTIONS.

ture, and at any other period the committee may deem proper; and that they further report to this house, whatever they may deem proper in relation to the government and situation of the institution; and that the committee also examine into and report to the Legislature, the situation of the Lunatic Asylum, the manner in which it has been governed, the amount of moneys received and expended by the officers of the Asylum since the last settlement of their accounts with the State; and that the said committee enquire into and report whether any, and what additional improvements or grounds are necessary for the convenience of said institution; also, what sum or sums of money, will be sufficient to defray the expences of the Asylum to the 15th day of November, 1825.

[Approved, November 13, 1824.]

A RESOLUTION for appointing a joint committee to enquire into the official conduct of the Judges of the Court of Appeals, and to investigate their decisions, &c.

Resolved by the General Assembly of the Commonwealth of Kentucky, That a joint committee of four from the Senate and eight from the House of Representatives, be raised upon that part of the Governor's communication which relates to the decisions of the Judges of the Court of Appeals, with power to examine into the official conduct of the Judges of that Court, and report thereupon by address for their removal, if the results of their inquiries may, in their opinion, justify it; and that the said committee shall have power to send for persons, papers and records for their information.

[Approved, November 13, 1824.]

A RESOLUTION directing the chimneys of the Capitol to be removed.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the sergeant-at-arms of the Senate and of the House of Representatives, cause the chimneys, so far as they project above the walls of the State-House, to be removed forthwith.

[Approved, November 17, 1824.]

A RESOLUTION concerning the Penitentiary.

WHEREAS the commissioners appointed by a resolution of the last General Assembly of this Commonwealth, to make a thorough examination into the situation of the Penitentiary institution, &c. and report thereon to the present General Assembly, have failed to perform the duties required of them; and whereas Jephthah Dudley, Esq. one of said commissioners, has, since his said appointment, been chosen a member of the Senate, by reason of which it is put out of his power to give that attention to the subject which

is indispensable to a full compliance with the objects of said resolutions, so as to enable the said commissioners to make their report at an early day of the present session; and whereas the said Jephthah Dudley, Esq. has desired to be excused from the performance of said duties: Therefore,

Be it resolved by the Senate and House of Representatives of the Commonwealth of Kentucky, That Jacob Swigert be, and he is hereby appointed a commissioner in the room and stead of the said Jephthah Dudley, Esq. as commissioner in conjunction with the other commissioners appointed by said resolutions, to do and perform every thing by said resolutions required; and the said commissioners are requested to make report to the present General Assembly, at as early a period as practicable.

[Approved, November 17, 1824.]

A RESOLUTION appointing joint committees to examine the situation of the Treasurer, Auditor and Register's offices.

Resolved by the General Assembly of the Commonwealth of Kentucky, That a committee of three from the Senate and six from the House of Representatives, be appointed to examine the situation of the Treasurer's office; three from the Senate and six from the House of Representatives, to examine the situation of the Auditor's office; and three from the Senate and six from the House of Representatives, to examine the situation of the Register's office.

[Approved, November 17, 1824.]

RESOLUTIONS requesting the Governor to invite General La Fayette to visit the State of Kentucky.

THE select committee to whom was referred, so much of the Governor's message as relates to the invitation of General La Fayette to this State, as the "Nation's Guest," have had the same under consideration, and now beg leave to make the following report:

Under a profound conviction that the right of the people, in a state of civil society, to govern themselves, has the sanction of principles of eternal fitness; that the freedom of the people consists *alone* in the exercise of this right; and that in order to maintain it from the encroachments to which it is liable, and the degeneracy to which, like every other human good, it is incident, the people who enjoy it should cherish those trains of thought and cultivate those affections of heart, which most kindly associate with their best exercise. Upon this principle the people of the United States commemorate the fourth of July; the day on which their fathers made a solemn declaration of their right to govern themselves, and appealed to Heaven for its justice; the day which gave

date to that perilous and memorable struggle, which terminated in the achievement of this great and inherent right, and in its recognition by its enemies. Hence that reverence for the character and memory of Washington, throughout America, and among the votaries of freedom in every clime, and which is bounded only by the line which separates devotion from idolatry.

Their love for Washington was a compound of the strongest and clearest perceptions of which the rights of man are susceptible, and the purest affection of which the human heart is capable. He had been the successful champion of liberty; he had conquered its enemies, and displayed in the process that excellence of moral character, which well consorted with the purity and sublimity of the principles for which he contended. His name, now that he is gone, awakens in the minds of his countrymen, and will, it is hoped, ever continue to do so, those trains of thought, and those recollections which associate the past with the present, and exhibit the great principles for which he and his compatriots suffered and bled, in the most animating and consolatory aspect.

The love that is felt for Washington, is the devotion of the people of the United States to civil liberty. His life and services had identified him with its most sacred principles; they had been consecrated by the toils, the sufferings and the blood of the most distinguished patriots. The veneration in which his memory is held, is but the homage of intellect to principle. It is the streams of reason and affection, flowing confluent in the channel of principle, throughout the regions in which the tree of liberty grows, moistening the roots, strengthening the growth, and deepening the verdure of that consecrated tree. The name of General La Fayette is associated with that of Washington, and of the patriots of the American revolution. His name is incorporated with theirs, among them, and in a state of juxtaposition to Washington. He enjoys the affection and admiration of the citizens of the United States. His posture in the galaxy of those worthies who achieved immortality, by their devotion to the cause of civil liberty and the rights of man, is conspicuous and impressive, rendered more so by his alien contour and costume, and by his long protracted and accumulated sufferings, in the cause of humanity and liberty. His fame is in the care of history and posterity; he still lives, and is now, through the indulgence of Heaven, encircled by the affections of ten millions of freemen, with whose sires and for whose freedom he fought and bled. The United States are, at this moment, in the glow of gratitude which they feel and display towards that illustrious individual, exhibiting to the world a spectacle, which, while it appals tyranny, is calculated to cheer and invigorate freedom.

The people of Kentucky are not less enthusiastic in their love of liberty, than their brethren of the Atlantic States. Kentucky

was an almost unpervaded and entirely an unsubdued wilderness, when the Marquis La Fayette nobly volunteered and generously bled in the cause of freedom. His name and deeds are incorporated in and identified with the history of its achievement; it is associated inseparably and indelibly with the knowledge and feeling which the people of Kentucky have of their rights. They love and delight to honor the man in the degree in which they perceive, feel and appreciate those rights, and that is to the extent of their consciousness of them. They want to see and display towards this most excellent man, the grateful sensations which they feel; and they wish him to see, in the cultivated plains of Kentucky, and in her free institutions, some of the fruits of his co-operation in the hallowed cause of liberty, with Washington and the other patriots of the American revolution: Wherefore,

Resolved by the General Assembly of the Commonwealth of Kentucky, That the Governor be, and he is hereby requested to forward to General La Fayette, in the name of the good people, an appropriate invitation to visit the State of Kentucky; and upon the invitation being accepted, as it is hoped it will, to direct and superintend the manner of his reception as the guest of this State.

Resolved further, That in the event the General accepts of said invitation, the Governor, to defray the expences of his reception, shall be permitted to draw upon the Treasurer for any sum which shall be necessary for that purpose.

[Approved, November 17, 1824.]

A RESOLUTION for appointing a joint committee to examine and report the situation of the Bank of Kentucky.

Resolved by the General Assembly of the Commonwealth of Kentucky, That a committee of four from the Senate and eight from the House of Representatives, be appointed to examine the Bank of Kentucky, and report specially the amount of capital stock of said Bank, distinguishing in said report, the amount owned by the State and the amount owned by individuals; also, the amount of debts due said Bank; the amount of deposits therein, distinguishing in said item of deposits, whether the same is in specie or special deposits in paper; also, the amount of notes of said Bank in circulation, including the notes made payable at the late branches of said Bank; also, the amount of specie in said Bank; and that they also examine and inspect the books and accounts of the institution, so as to ascertain the amount of loans, and in what manner they are secured; and that said committee have power to send for persons, papers and records for their information.

[Approved, November 20, 1824.]

A RESOLUTION appointing a joint committee to enquire into the loss of money reported by the Treasurer.

WHEREAS the Treasurer of this Commonwealth did, on yesterday, communicate to this house, that the day on which the Capitol was consumed by fire, a sum of money exceeding two thousand dollars, had been lost or taken from his office, by some person unknown, and requesting an inquiry into said loss: Wherefore,

Be it resolved, That a joint committee of four from the Senate and eight from the House of Representatives, be appointed to enquire strictly into the fact, and to make examination of the Auditor's office, the Treasurer's office, and the Bank of the Commonwealth and of the State of Kentucky, to any extent which they may deem necessary to the performance of the duty hereby assigned them, and report thereon specially, to each branch of the present General Assembly; and that the said committee shall have power to send for persons, papers and records, for their information.

[Approved, November 20, 1824.]

A RESOLUTION appointing a joint committee to investigate the accounts and conduct of the Keeper, Agent and building Commissioners of the Penitentiary.

Resolved by the General Assembly of the Commonwealth of Kentucky, That a joint committee of three from the Senate and six from the House of Representatives, be appointed to investigate the accounts and conduct of the Keeper, Agent and building Commissioners of the Penitentiary, and that said committee report the result of their investigation to the General Assembly; and that they have power to send for persons, papers and records.

[Approved, November 30, 1824.]

RESOLUTIONS concerning the Bank of the Commonwealth of Kentucky and Branches.

Resolved by the General Assembly of the Commonwealth of Kentucky, That joint committees be raised, consisting of the Senators and Representatives of the different Bank districts of the Commonwealth's Bank, and that said committees severally report the true condition of their Branch, and whether the debts, in their opinion, are secure; and what amount of debts are bad or doubtful, and to what counties they belong.

Resolved further, That a committee of three from the Senate and six from the House of Representatives, be appointed to examine the situation of the Bank of the Commonwealth of Kentucky, and make report thereof.

[Approved, December 6, 1824.]

RESOLUTIONS concerning repairs to the Government House.

Resolved by the General Assembly of the Commonwealth of Kentucky, That a law ought to pass, authorising the Governor to draw upon the treasury for the amount of repairs done to the government house, and for articles of furniture therein.

Resolved, That the Governor cause to be made the necessary repairs to the rooms in the upper story of the government house.

[Approved, December 7, 1824.]

A RESOLUTION concerning the Penitentiary.

WHEREAS this General Assembly feel a strong conviction that there does exist, either some defect in the law, or some internal mismanagement in the Penitentiary institution, which ought to be speedily corrected: Therefore,

Be it resolved, That a joint committee of two from the Senate and four from the House of Representatives, be appointed to receive propositions from individuals who are willing to take upon themselves the management and support of the Penitentiary institution, particularly to investigate the merits of Scott's and Hensley's propositions already made, and report to the General Assembly the advantages and disadvantages of each, as also, the advantages and disadvantages of any other proposition which may be made; and that said committee report what, in their opinion, would be the best policy in relation to said institution, by bill or otherwise.

[Approved, December 8, 1824.]

RESOLUTIONS providing for the election of Trustees to Transylvania University, and fixing on a day for that purpose.

WHEREAS Transylvania University is a State institution, established by the Commonwealth of Virginia, and fostered by the Legislature of Kentucky, since the separation, for the benefit of each rising generation, and is one of the nurseries of the future Legislators, Judges and Statesmen of our country; and it is important that the government of such an institution, created and sustained by the public resources, should accord with the sentiments of the people throughout the State, to whom it properly belongs, and should maintain their confidence and support, and be calculated to cherish and perpetuate the republican principles of our political system: To effect these objects,

Resolved by the General Assembly of the Commonwealth of Kentucky, That it is expedient for the General Assembly frequently to exercise the power of appointing Trustees for said institution.

RESOLUTIONS.

Resolved further, That it is expedient for this General Assembly to elect a Board of Trustees for said University, and that they will proceed, on the 14th instant, to have an election.

[Approved, December 13, 1824.]

A RESOLUTION concerning the Directory of the Bank of the Commonwealth of Kentucky.

WHEREAS it appears that some of the Directors of the Commonwealth's Bank or its branches have failed to comply with the calls on their notes under discount: For remedy whereof,

Resolved by the Legislature, That in the election of President and Directors for said Bank, no Director or person whatever shall be eligible to the office of President and Directors of said Bank or its branches, who shall appear to have failed to comply with the calls of said Bank and its branches, on their notes under discount in the Bank and its branches,

[Approved, December 23, 1824.]

A RESOLUTION for paying the Building Commissioners of the Penitentiary.

WHEREAS, by an act entitled "an act to enlarge the Penitentiary," approved 7th January 1824, the Commissioners are authorised to draw on the Agent for manufactured articles to an amount not exceeding \$3,000, and that contracts were made for a portion thereof, which cannot be complied with, in consequence of the resignation of said Agent, which office is now vacant:

Be it therefore resolved by the General Assembly of the Commonwealth of Kentucky, That the Keeper of the Penitentiary be authorised and directed, as far as he can, to pay the order or orders of said Commissioners, which they were authorised to make upon the Agent, by the second section of the said recited act, so far as articles may remain in the care of, or under the control of said Keeper.

[Approved, December 30, 1824.]

A RESOLUTION fixing on a day for the election of Public Officers.

Resolved by the General Assembly of the Commonwealth of Kentucky, That on the 4th day of January 1825, they will proceed to the election of Treasurer, Public Printer or Printers, Presidents and Directors of the Bank of the Commonwealth and its branches, and President and Directors of the Bank of Kentucky.

[Approved, January 3, 1825.]

A PREAMBLE and RESOLUTION in relation to the decisions of the Court of Appeals.

THE joint committee raised upon that part of the Governor's communication which relates to the official conduct of the Judges of the Court of Appeals, have had that subject under consideration, and beg leave to report: That the Judges of that Court, at their last fall term, pronounced a decision, in the cases of *Blair vs. Williams* and *Lapsley vs. Brashear*, annulling, in effect, the laws of this State in relation to replevin bonds, to forthcoming bonds, to the valuation of property subjected to sale under execution, to the sale of property under execution upon a limited credit, and even to the occupying claimants of land, and circumscribing, by the reasoning which it employs, and in the principles which it attempts to establish, the legislative power of the government, within a compass too narrow to be exercised usefully or beneficially to the community. The encroachment made by that opinion, upon the constitutional and legitimate powers of the legislative department, and upon the great principles of self-government by the people, in the exercise, by that department, of its appropriate powers, and the afflicting degree in which it was calculated to disorder the social relations throughout the community, could not, and did not, escape the discernment and vigilance of our late excellent and patriotic Chief Magistrate, General John Adair. In his communication to the Legislature, at the last session of that body, he invited their attention to the import of that decision. The committee to whom that part of his communication was referred, made a report sanctioning the decision and asserting the right of the judicial, to *check and control* the legislative department, in the exercise of its legislative powers. The Legislature, by appropriate preamble and resolutions, repelled the doctrine of the report, asserted the error of the principles of the opinion, and in affirmance of their sentiment, superadded a cautionary enactment, entitled "an act to regulate the issuing of executions," approved January 2d, 1824. Thus an issue was distinctly formed between the two departments, and referred to the People, that august and paramount tribunal, from whose decision there can be no appeal by either party. They, it is believed, have made up their verdict, and it remains that their representatives should, at the present session, give it effect, and enrol it in the archives of State. Their opinion is not the effervescence of popular excitement; it is the result of a deliberation, calm and dispassionate in a degree proportioned to the magnitude and importance of the question, viewed in all its aspects. They have not, in the consideration of this matter, been either ignorant or regardless of the boundaries which limit the rights and duties of the contending departments; nor have they overlooked the great political principles with which those rights and duties are respectively connect-

ed, and upon a just observance of which, by each, the welfare and repose of society essentially depend. They have not been convinced by reflection, nor seduced or derided into the belief that the Judiciary possess the *right*, by the constitution of the State, or upon the natural and acknowledged principles of fitness, upon which all free governments are based; to check and control the legislative department in the exercise of its power.

It is a principle of axiomatic character, that in every government there must exist a controlling and paramount power, competent to all the purposes of government; that to this, all other lodgments of power must be subordinate and amenable. It is a principle not less obviously clear, that in *free governments that power is inherent in the will of the people*, and that in such governments *the will of the people is the sovereign power of the State*. It is also equally obvious, that that power is the result of the social compact; that from that compact, as from its *natural radix*, flow all obligations of a political and legal character; and that the obligation of the social compact, upon all the members of civil society, results from their having each freely assented to it; and hence it follows as a clear and self-evident principle, that all obligation amongst men results from the exercise of volition, express or implied. Volition is the elementary and primary ingredient in obligation. But the social compact and the constitution are not, as some have urged, one and the same thing. They are distinct and essentially different things. By the social compact, the members of it agree to live together in a state of civil society, and for the protection of their rights, their property and their persons, to submit them all to the regulation and the control of the *will of the society*. When this compact is formed, the society becomes thereby a corporate existence, a moral agent, and is invested with all the attributes and faculties of moral agency; it is an entirety; it thinks, reflects, reasons, wills and acts. The earliest employment of its faculties, is in the organization of its government. It delineates, in its constitution, the form of the government of its choice. But unanimity is not, as it was in the formation of the compact, necessary to the validity and obligatory effect of the constitution. It was settled by the compact, that the will of the majority should govern. That is the only rational exposition of it, as to that matter. The majority were, therefore, competent to the formation of the constitution. The constitution may be altered, amended or abolished, without throwing society back into a state of nature, or at all impairing its corporate existence or moral agency, or even essentially endangering its liberty; for its liberty must, in every posture in which it can place itself, depend upon its *will*, and that will must, according to the inherent laws, both of matter and of mind, display itself in its preponderance. Neither the compact nor the constitution contains any stipulation for a minority, or a majority, as such, or for

the component parts of either, in their minority or majority character. The members of each, stand bound to abide by the general will; and that will, except in a few cases otherwise provided for in the constitution, must be promulgated, whether in giving form to the government, or in the enactment of laws, through the medium of the majority. All that is said, therefore, about the rights of minorities, is incompatible with the very nature of civil society. Every just conception of the social compact, and of the constitution, forbids the idea, and every proposition in relation to the rights of a minority as a dissentient portion of the community, is a solecism in politics, of the most palpable kind.

The rights of each member of society, must, from the nature of government, depend upon the *will* of all, and that will must be displayed by the agency or expression of the majority. The rights of all are equal, homogeneous and correlative, and depend alike upon the general *will*. The majority is the channel through which the stream of that will must, to be efficient, flow. The minority is the divergent tendency of a portion of its volume, which, by meeting with resistance in its lateral direction, forms a temporary eddy, and again disappears by its confluence with the general stream. The presumption is, always, that the minority is wrong; and the only right which it has, is to escape from that imputation, by endeavoring to become, through its enlargement, the majority, and in its success, to lose, with its existence, its right.

It has been said, that the will of the people, in civil society, constitutes the sovereignty of the State; that sovereignty is essentially a *moral force*, of unlimited extent, and in its elementary state, consisted in the will of each individual member of society, anterior to the social compact; for man is social, and lived in society even in a state of nature. The compact gives rise, not to society, but to the corporate agent, the moral personage called *civil society*. In civil society, each of its members exerts a double will, the one as a commoner of nature, the other as a member of the corporate body. The first is erratic, impulsive and selfish; the other is social, or rather, political, and its state of confluence with the like will of the other members, is, like that of those with which it is associated, pure, enlightened and disinterested. It is this confluent will which gives form to the government and law to the community; which displays its power in the constitution, and the code which controls, restrains and regulates the selfish will of individuals. It possesses all the attributes of supremacy, and is, in every state of civil society, the unerring arbiter and uncontrolled sovereign of the State. It is this will, and this alone, which imposes, in the constitution, the only *check* upon legislation which it can recognize, or to which it can submit. Any check or control of the legislative power, from any other quarter, or of any other kind, is neither more nor less than *tyranny*.

The limits prescribed in the constitution to the legislative power, are but the modes in which the sovereign has ordained that that power shall be exerted; for the ordination of fundamental rules, and the enaction of laws, are alike the exercise of the sovereign power. It is from that consideration, that both the constitution and the code derive their authority. The settled canons of our political rights and of sovereign agency, are proclaimed in the constitution. For our civil rights, we examine the code. The Legislature, in supplying the code, display the will of the people, limited only by their own pre-ordinations in the constitution, and that government only is free, which knows no-restraint upon the exercise of its legitimate faculties, which was not imposed by itself in its organization; and among free governments, that is *freest* in which no restraint upon its legislative power is to be found in its constitution, which is not *essentially* necessary to its existence and well-being. It is by legislation only, that an organized government can express its *will*, and as the freedom of an individual is diminished or extinguished by the partial or total control of his will, so is the freedom of government diminished or extinguished by the partial or total control of the legislative power. Any people, therefore, which imposes in its constitution, a restraint upon the exercise of the legislative power, not necessary to the well-being of the government, so far uselessly diminishes its liberty; for, as in the animal body, the exercise of voluntary action is limited only by that mechanical action of the vital organs, which is necessary to the circulation of the fluids, upon which life depends; so, in the body politic, the power of legislation should be limited by that display only of *fixed will* in the constitution, which is necessary to its living and healthful state.

But it is urged, that the representatives of the people may err in the enaction of laws, and that, therefore, the exercise of legislative power should be subject to the check and control of the judiciary. Why should they be subject to the control of the judiciary, rather than of the people, the only and legitimate sovereign? May not the judiciary err also, in the exercise of the controlling power? Are they less liable to err than the Legislature? But would not the skein of legislative power be strangely striped, if the control of the Legislature were taken from the people, to whom its members are immediately and directly responsible, and transferred to the Judges, to whom they bear no responsible relation? And is it not strange, that the power to control the Legislature should be ascribed to the Judges, who are, themselves, immediately responsible to that body, as the organ of the people? But in controlling the only organ by which the people can express their will, would not the Judges control the people themselves? But the necessity of the control of the legislative power by the judiciary, is not perceived. Does either reason or the experience

of governments sanction it? It is believed not? The most solemn and eventful display of the legislative power which can be made by any people, is made in the organization of their government, in the formation of their constitution; and yet, so far from their being availed in that interesting process, of the controlling wisdom of the judiciary, the Judges are, by it, then only for the first time brought into existence, and that only in contemplation. It is reserved by that instrument, for the Legislature, the very body whom they assert the right to control, to create them, and prescribe their duties; and it would seem, that if the people were wise and virtuous enough to be trusted with the organization of the government, and with the specification and recognition in the constitution, of their great and essential rights, they ought to be supposed to be wise enough to enact laws for its administration—the latter as well without the control of the judiciary as the former. The same people that formed the constitution, enact the laws; and if they were equal to the former, they ought not to be supposed to be incompetent to the latter. Judicial control cannot be more necessary in the performance of the latter, than of the former; but the people, it is admitted, are sovereign, and the Legislature is the only organ by which they can express their will. To control, then, that only organ, is to control the people. But they cease to be sovereign when they are controlled, and the Judges who control them become the sovereign. This theory, then, of judicial control, eventuates in a curious spectacle—the creature controlling the creator—the subject, the sovereign; for the people, through their legislative organs, created the Judges.

Again; it is certainly more rational to leave the control of the legislative power where reason and the constitution seemed to have placed it, in the annual and direct responsibility of the representatives to the people, than to concede it to the Judges. The concession would imply a surrender by the people, of the governing power, to the appellate court; for it is by legislation only, that the governing will of the people is displayed. That is essentially their mode, as they have ordained it in the constitution, of governing themselves. But why is it urged that the surrender should be made to three? Why not to one? Is not the reasoning in favor of the control of the power of legislation by the *three*, as much stronger in favor of the control of the people by one, than of their self-control, as three is numerically nearer to one than to half a million? If the Judges possessed the purity and wisdom of archangels, it would be unwise to concede to them the power contended for, unless they were also immortal; for however wisely and beneficently they might exercise it, their successors might exert it wickedly and oppressively. Besides, if the principle were once conceded, some ambitious aspirant might relieve them of the

trouble of exerting the controlling power, and take it, with the entirety of legislation, into his own hands.

Again; it is said that the judiciary is the weakest department in the government, and that there is security against the injurious exercise of the controlling power asserted for the Judges, in its weakness. If the judicial were really weaker than the legislative department, then would the doctrine of their right to control the exercise of the legislative power, be as absurd on philosophic, as it is erroneous on political principles. It would be to assert that the minor could control the major. But is the judicial *really* the weakest department of the government of Kentucky? The extent of the jurisdiction of the appellate Judges, their tenure of office for life, and the exemption which their decisions enjoy from revision, reversal or control, would seem to indicate great strength in that department. They have society in their power, by having the dearest interests of every one of its members liable to be drawn into contest before them, and decided irreversibly by them. The extent and character of their jurisdiction is calculated to impress awe upon all, and to excite, by its perversion, the sympathy of but few. The worst decision, where individual interests only are involved, can affect afflictively but one of the parties. The sufferer experiences the condolence and sympathy of his immediate connexions and friends only, and they form but an inconsiderable portion of society; and even they may be constrained to be silent, lest, by awakening the resentment of the Judges, they should in time experience the like fate. It is only when, as in the cases above alluded to, the Judges attempt to fasten upon society, principles incompatible with its fundamental rights, and to prostrate the remedial system, upon which its interests and its tranquility repose, that public attention can be awakened to judicial aberration and frailty; and even then, the strength of the department is displayed in the almost inaccessible posture of its incumbents. That the judicial department is, in its political organization, weaker than the legislative department, it is not less the felicity than the pride of the people of Kentucky to know and believe. Hence, it is believed that it was not the intention of the people, that the latter should be controlled by the former. But that it is strong, adventitiously at least, is evinced by the effort made, as well by its incumbents as others, to sustain the obnoxious decision alluded to, and to prostrate the remedial system of the State.

Those who acknowledge the right of the people to govern themselves, and that their power to do so is supreme, and consists in their will, usually display a seeming reverence at least, for their supremacy. What but an illusive consciousness of their strength, could have restrained the appellate judges from doing so? There is a majesty in public will, which it requires great confidence to defy; there is a force in it, which it requires great strength to re-

1st. The constitution forms the only limit to its power; and it remains to be seen, whether it has furnished to the appellate judges a posture of exemption from the arbitrament of public sentiment.

But may it not be confidently asserted, that the people, in the construction of the legislative department, interwove in its machinery, by constitutional provisions, the only checking and controlling powers to which they intended to subject it? That department consists, according to the constitution, of the House of Representatives, the Senate, the Lieutenant-Governor and Governor. The members of the first are elected annually, and serve one year only; those of the second are elected for, and serve four years, and one fourth of them are moreover elected annually. The Lieutenant-Governor and Governor, are each elected for four years. The members of the House of Representatives must have arrived at the age of twenty-four years; those of the Senate at the age of thirty-five, before they become eligible to their respective branches. No person, while he continues to exercise the functions of a clergyman, can be elected to a seat in either house. No person who shall have been either a principal or deputy collector of taxes, can be elected until he shall have paid into the Treasury all arrears, and obtained from that department a *quietus*. There are superadded; also, qualifications as to the residence of the members of both bodies, and of the Governor and Lieutenant-Governor. Both branches shall keep journals of their proceedings, and any two members of either branch, may, by calling for the yeas and nays, have the vote of the house recorded on the journals. The journals shall, moreover, be published weekly. The Lieutenant-Governor shall preside in the Senate, and maintain order in that body, and in case of a division, give the casting vote. The Governor shall approve and sign every bill, or send it back to the branch in which it originated, with his written reasons for withholding his signature. Those reasons are to be spread upon the journals, and the vote is then to be taken upon it by yeas and nays; in which case, it requires a majority of all the members elected to both houses, to give it the force of a law, against his veto. Whence all this particularity, this almost redundant caution in the process of legislation? Not, surely, with an eye to judicial control. Whence, but to permit those only to be employed in it, who were most capable of it, and to subject them, while engaged in it, to a strong consciousness of their responsibility to the people, and thereby to secure them against the indulgence of any erroneous, selfish or corrupt impulses whatever; to filtrate and clarify the stream of the people's will, from the impurities with which it might be tainted, by the channels through which it had to flow, before it should be chrystalized into law? The members of the lower house are to be elected annually, that they may go into session with a knowledge of the wants of the people, and of their will

in relation to those wants, fresh in their minds. They are elected but for a short time, lest they should pervert or disobey that *will*; lest by mistaking the impulses of a portion, for the will of the whole people, they might inflict *lasting ills*, upon the community. The period of their service is short, that their responsibility may be the more direct, and their consciousness of it the more vivid; that the ills inflicted by their errors, might be the more speedily corrected by their successors. The members of the Senate are elected for four years, for the purpose of checking and controlling any feverish, impulsive or tumultuary tendency which might be displayed on the part of the immediate Representatives of the people; while the latter, in turn, were intended to check and control any aristocratic direction which that body might, owing to its more remote and less responsible posture, be disposed to take. The Governor's limited legislative power was superadded, as a check upon both, in the maintenance of that equipoise between them, in the exercise of their respective powers, which would be alike remote from the evils of anarchy and aristocracy. The term of his service, his incapacity for immediate re-election, and his remote exemption from the power of either branch, qualified him admirably for the exercise of a limited control over both. To all these cautionary provisions, there is superadded in the constitution, the provision that every bill, order or resolution, before it can have the effect of a law, must be read and free discussion had thereon, on three several days, in each house, unless four fifths of the members shall dispense with the rule. Surely, if the one hundred members of the House of Representatives, the thirty-eight of the Senate, the Lieutenant-Governor and the Governor, possessing the qualifications, occupying the post, ^{maker} and performing the duties prescribed to them in the constitution, cannot, in the exercise of the legislative power, secure the confidence and promote the comfort of society, that great object cannot be accomplished by superadding the control of the *three Judges*.

But is there any peculiar or intrinsic fitness in the judicial department, for the control of the legislative? Are they less frail and more inaccessible to the impurities which might taint the streams of public will, in their meanderings through the channels of the legislative process, and their more ramified meanderings throughout society? The Judges, appellate and subordinate, form a distinct official corps. They are, by their official situation, apart from the great body of the people, to a certain extent. Their number is comparatively small; their power, as has been shown, necessarily great. Their duties lead them to an intercommunion with each other and with the few in society, (rather than with the people,) who, by their wealth, as they by their salaries, are exempted from the usual employments of common life, and the consequent cares and inquietudes which are inseparable from

the condition of the great mass of *mankind*; and it is this common condition of mankind, which needs the remedial energies of government, and must always invoke them when they are needed. Habitudes of thought and of action, peculiar to the posture of rule and dominion, which the Judges occupy, are naturally superinduced; and being aloof from the people, they cannot be supposed to be sufficiently acquainted with their condition and their wants, to exercise usefully, either the legislative power, or safely to check and control its exercise.

But what ought, it is believed, to be decisive upon this subject, is, that both the departments are destitute of political power, further than they derive it from the people, the acknowledged source of all the power belonging to civil society. They are but functionaries; the one to promulge the will of the people, and the other to carry it into effect. The will expressed by the one, is the rule of the official conduct and duties of the other. But if the latter could control the former in the exercise of its legislative powers, then it could, by that control, regulate its own conduct and duties, by its own *will*, thereby uniting in itself, the legislative with the judicial power, contrary to the spirit and letter of the constitution. For, to control the will of any agent, is to deny to it the power of action, in any other mode, than according to the will of the controlling power. So the power asserted for the judiciary, is, in effect, the power to control the people. It is the ascription to them, of the paramount and sovereign power of the State.

To this the people cannot consent. They acknowledge it to be the duty of Judges to determine upon the validity of any law, when its constitutionality shall be drawn into contest before them, in any cause which it becomes their duty to decide. Their power to do so, is incidental to their judicial duty, and must be exerted under their official responsibility to the people, through their representatives. The law was enacted by those representatives under a direct responsibility to the people. The decision of the people, in relation to their responsibility, should be alike efficient, and alike acquiesced in by the members of both departments. It ill becomes the members of either, to question the power, or to distrust the integrity, or the intelligence of the people; for when the competency of the people to govern themselves is acknowledged, there is in the acknowledgment conceded to them, the intelligence, the virtue and the power necessary to all the purposes of self-government, the concession of the end being a concession of the means. A law, therefore, declared by the Judges to be unconstitutional and void, should be so obviously and palpably so, that the people, when their attention was drawn to the subject by the decision, would perceive at once, that their representatives had erred in its enactment, and sanction the declaration of its invalidity by the Judges.

The people have no motives, they can have none, to take part with the members of either department, unjustly or injuriously to those of the other. Their object is, and must necessarily be, the promotion of the general welfare. They cannot sanction or connive at any error or obliquity in either department, which threatens to contravene or thwart that great object. The general welfare consists in the enjoyment of his rights, political and civil, and the performance of his duties, by every member in the community. Political rights are seldom violated by individual aggression; and when individual rights are assailed by individual outrage, reparation is speedily awarded, while justice regards the public will as the criterion of her awards. It is, as history and observation prove, from the *official ranks* that danger to the political and civil rights of society is to be apprehended. It is under the mask of the exercise of official duty, that oppression is inflicted upon individuals, and fastened upon States. The vigilance of society should, therefore, be always awake to danger from that quarter.

Power of every kind should be watched by a free people, with a zeal proportioned to their regard for their freedom. But executive power installed for life, as in the judiciary, should be the subject of *jealous vigilance*; and that vigilance should be displayed more especially in the enactment of its execution laws. It is the practical operation of these laws, that forms the points of sensitive contact, between the force of public will and the sensation of the individual members of the community. It is at this point, that official malversation inflicts great agony upon society. This is the point at which legislative enactments should limit official discretion; and this is the point also, at which the sensation of society pays the greatest homage to legislative wisdom and power. For when the sheriff or the marshal seizes the property of an individual and bears it off, nothing but the authority under which he professes to act, distinguishes him from a robber or a tyrant. But the knowledge of the proprietor, that he is an officer, and that his property is in the custody, not of the individual, but of the law, to be dealt with, not according to the discretion of the *man*, but to the will of the community, reconciles him to the measure, and tranquilizes his mind. The consciousness that the laws under which the seizure was made, were enacted by the people, and that while they proclaim the liability of his property to seizure, they limit and define the authority, and prescribe the duties of the officer in relation to it, has a mighty influence in winning his quiet acquiescence. The nature of the duties, therefore, of the ministerial officers of justice, and the relations into which they are thrown in the performance of those duties, render it peculiarly proper, as well in relation to the security of individuals from oppression, as in relation to the tranquility of society and the authority of the government, that those duties and relations should not

be left to judicial or ministerial discretion, but be defined by legislative enactments.

That such was the intention of the people, is evinced by their constitution. There is no form given in that instrument in which an execution shall be made out. It designates no period at which it shall be issued, or within which, after it shall have issued, it shall be levied and returned. It is entirely silent as to the mode of proceeding in civil cases. Nothing is said about the writ original, intermediate process, or writ final. It enjoins, in the thirteenth section of the tenth article, that "all courts shall be open, and every person, for an injury done him in his lands, goods, person or reputation, shall have *remedy* by the *due course of law*, and right and justice administered without sale, denial or delay." But it furnishes no code of '*law*,' by the '*due course*' of which justice is to be administered. It is not to be administered according to the *discretion of the Judges*; it is to be administered by the courts, "without sale, denial or delay, according to the *due course of law*;" and as the '*law*' by the '*due course*' of which it is to be administered, is not to be found in the constitution, it must be looked for in the statute book. Not having been ordained by the people in their constitution, they must furnish it by their legislative enactments, or the Judges must furnish it. But it is not pretended that the Judges can enact laws, whereby to administer justice. They are to *administer justice according to law*, not to make laws. The Legislature, then, are to enact the laws by the due course of which justice is to be administered by the courts. Now, in furnishing the kinds of execution and prescribing the *mode* by which, and the time within which, they should be executed and returned by the ministerial officers, the Legislature were left by the constitution to the *free exercise of their discretion, subject to the control of the people only*.

But it is alleged that the clause of the constitution of the United States, which provides that "no State shall pass any *ex post facto law*, or law impairing the obligation of *contracts*," prohibits the Legislature from exercising its discretion as to the time within which an execution shall be levied and returned. Those who urge that sentiment, must insist that every execution shall be levied and returned in the *shortest possible time*, and that the courts shall, in every instance, determine, from the circumstances of the case, what is that *shortest time*. But the fifth amendment to the constitution, provides, that no person shall be deprived of his life, or liberty, or property, without "*due process of law*." But an execution deprives the defendant of his property. It must, therefore, be a '*process*' formed and regulated by '*law*,' so that both constitutions alike prohibit the Judges from administering justice according to their discretion, or to any other criterion *than law*.

But if an execution must be issued, levied and returned, in the shortest possible time, in every instance, then the mode of proceeding on the part of the ministerial officers, cannot be prescribed by the Legislature, and the administration of justice cannot take place according to *law*, as *prescribed by both constitutions*. The discretion of the Judges, exercised upon the circumstances and situation of the parties, and their proximity to, or remoteness from the office whence the execution emanates, must determine the time and furnish the rule in each particular case. The same discretion must be exercised in ascertaining whether the officer has performed his duty with the requisite dispatch; and what is worse, this discretion must, in every instance, be exercised *retroactively*, to furnish the law of proceeding in each. Can any thing more tyrannical be conceived of? Upon this hypothesis, the rights of the people would be subjected, in the first instance, to the *discretion* of the sheriff or his deputy, and in the last to that of the courts. *Discretion*, when exercised by the appropriate department, under the appropriate responsibility to the people, in the enactment of laws in relation to this subject, is the process by which a free people regulate their own concerns; exercised by any other description of magistracy, it is tyranny, and the people who acquiesce in its exercise, *cease to be free*.

But if it be conceded, *as it must be*, that neither the constitution of the State, nor of the United States, furnishes any execution law, and consequently that it is not less the right, than the duty of the Legislature, to furnish those laws, it must be admitted also, that the enactment of a system of execution laws, involves the exercise of legislative discretion—necessarily involves that exercise; for it is essentially matter of discretion, what shall be a reasonable time within which to levy and return an execution. A general rule upon this subject must be inferred from a comprehensive survey of the condition of society, and of all the causes, moral, political and physical, which may essentially affect that condition. But whatever is essentially and intrinsically matter of discretion, must abide the award of the power to which its ascertainment or decision is confided; and the enactment of execution laws, having, by the constitution, and the nature and fitness of things, been confided to the legislative department, and having been arranged, settled and ordained by their discretion, must continue to be the rule of action, until altered by the same power. For whatever is incapable of being subjected to any fixed rule of ascertainment, must necessarily, if it be settled at all, be settled by the exercise of discretion, and result in opinion; and the opinion of the Judges, if they had the right to form one, however different it might be, could not, according to their own well established doctrine, reverse that of the Legislature. It is on this principle that all enlightened Judges refuse to grant new trials, in actions of tort—ac-

tions in which, what ought to be the amount of the verdict, is essentially matter of opinion with the jury. The opinion of the court, that the verdict of the jury is for too *much* or too *little*, will not authorize its vacation or reversal; and simply for the reason that what its amount ought to have been, was, in its nature, matter of discretion—of opinion, and has been settled by the department whose province it was to settle it. If it might be reversed by opinion, the opinion reversing it, might, on the same principle, be reversed. There is no fixed rule by which it can be ascertained that the one opinion is more just and certain than the others, and proceedings would be endless and fluctuate upon discretion in relation to all matters depending upon its exercise, unless the first opinion were decisive. It is, therefore, in all such cases, necessarily decisive.

Upon this principle, which is alike imperiously true in law and politics, the legislative enactments in relation to executions and the mode of proceeding under them, should remain unreversed by the Judges, even if it were conceded (which it is not) that they could, as in jury cases, take cognizance of the subject. But have the Judges the exclusive right to interpret the constitution for the citizens of the State? Is not the constitution as much the political text-book of freedom, to the citizens of the State, as their articles of religious faith are, to the believers of any one religious denomination? Is it not the right, as well as the duty, of all the members of the religious society, to read and construe their book of faith for themselves? Would they be bound to adopt that exposition of it by their preacher, which was at war with the fundamental principles of their association and their creed? And which ought they to change, their *creed* or their *Pastor*? Would not the members of the association, in that case, revolt at the idea of surrendering the right of expounding for themselves, and submitting to his heterodoxical dogmas? Would they submit to dissolve their society, or surrender their creed, rather than remove their Pastor? They are exclusively interested in the orthodoxy of their faith; they each have to suffer, or enjoy, as they shall believe and act correctly, or the contrary. Is it not precisely the same case in the political association? The members will enjoy or suffer according to their faith. But how can they believe, unless they understand? and how can they understand, unless they enquire, read and expound for themselves? In the religious society, the members of the association formed the articles of faith, and employed the Pastor, not to make them a faith, but to preach according to the faith which they had made for themselves. So, in the political society, the constitution is the book of the political faith of the members of the society. They made it, and they employed the Judges to preach or expound it according to their understanding of its import—according to their political faith.

When the Judges, therefore, expound it contrary to the fundamental principles of their political faith, shall they surrender their faith, or, as the religious association did with their pastor, remove the Judges?

The constitution is the people's, and when they cease to understand it, it ceases to be theirs. The general opinion of the import of the constitution, is necessarily and alone the constitution. It is the deliberately expressed will of the majority; and to suppose that there is not in society, intelligence enough to comprehend the purposes of its own deliberate will, in relation to the most essential rights of its members, and to the rights, powers and duties of its functionaries, is to assert that the people not only do not possess freedom, but are incapable of enjoying it; for, to the enjoyment and maintenance of freedom, there must be a capacity to comprehend the principles upon which it depends. When, therefore, the Judges have given an interpretation to the constitution, which is contrary to the general understanding of it by the community, an interpretation in which they cannot acquiesce, a decent respect for public opinion, especially when that opinion is deliberately formed and expressed, ought to induce them to surrender it, or their offices; for it is unsuitable and incongruous, that public functionaries should wage war with public opinion. They are trustees, and when they lose the confidence of the *cestui que trusts*, they should resign the trust. They are public *fiduciaries*, and they should not continue to be so, without the public confidence, and against the public opinion. They should not forget that public opinion is a tribunal of unlimited jurisdiction, and correspondent power. There is nothing of which it does not take cognizance, from the most exalted, to the humblest subject of human concern. By what other standard do we settle claims to moral excellence or intellectual pre-eminence, to delicacy of taste or propriety of conduct, to distinction in arms or in arts? It is this tribunal which awarded epic pre-eminence to Homer, dramatic supremacy to Shakespear, and immortality to Washington. It is to public opinion we submit our claims to reputation, which is dearer to us than life itself. What is excellent in painting or exquisite in music; what constitutes the grand, the beautiful, the sublime in nature, as well as all that charms in art, are settled, and irreversably too, by this august tribunal. Even the decencies and comities of life and of social intercourse, are settled by the same arbitress. And shall public opinion be competent to all this, and be unequal to the interpretation of an *article* in the constitution—be ignorant of what constitutes the *obligation* of a contract?

The attempt by the Judges, in that decision, to prostrate the remedial system, which the Legislature had enacted in obedience to circumstances of peculiar and resistless pressure, by denying to

society the power of accommodating its remedial enactments to its condition, and that too, upon subtle and metaphysical reasoning in relation to the obligation of a contract, by which to bring the power of legislation within the control of judicial discretion, in its exposition of the constitution of the United States, must have, it is believed, the reprobation of public opinion to an unqualified extent; and that reprobation must be strengthened by the consideration that two of the Judges (Judges Mills and Owsley) sanctioned, in their legislative capacities, anterior to their elevation to the bench, by their votes in the legislative hall, the very principle, which, by their decision, they have attempted to vacate and annul. Each of those gentlemen voted for the enactment of replevin laws, as the records of the legislative department evince. They have all, at various times and repeatedly, sanctioned by their decisions, the principles upon which the right to enact them is asserted by the Legislature, and has been sanctioned in usage, almost time immemorial, by the people. As Legislators, they believed with the rest of society, that there existed in the *nature of things*, a distinction between the *obligation*, of a contract and the *remedy*, furnished by the Legislature for its enforcement; that the former consisted in the *consent of the parties, upon a valid consideration*, to the import of the contract; that the latter consisted in that modification of the force of public will, which the discretion of society, upon a just survey of its condition, chooses from time to time to afford in legislative enactment for remedial purposes; that the former consisted *essentially* in the exercise of the *volition of the parties*, displayed upon *valid consideration*, in their *assent* to the contract; the latter, in the *volition of the people*, displayed in remedial enactments. The declaratory laws furnished the rules as to the competency of the parties to exercise their will in the formation of their contracts, and as to the character of the consideration essential to their validity; the remedial laws provided for their enforcement only.

But upon the *new theory* established by the Judges, that the obligation of a contract consists alone in the remedy for its enforcement, legislative power must yield to judicial discretion. It must always be a matter of discretion with the Judges, whether the legislative remedy is conformable to their notion of the obligation of the contract, and their exposition of that clause of the constitution, which forbids the States to impair, by legislation, the obligation of contracts, and, consequently, the rights of the people must depend, not upon law, but upon judicial discretion. That such has not been their opinion heretofore, may be seen by their decisions in the cases of *Grubbs vs. Harris*, 1 Bibb 567, of *Reardon vs. Searcy's heirs*, 2 Bibb 202-3, and of *Graves vs. Graves' executor*. In the first of those cases, that Court says: "Upon the propriety of the remedy by petition, &c. we can have no doubt. The state

ute is general as to the description of direct debts, whether they have commenced *before*, or shall exist *after* the passage thereof. The statute does not change the *essence of the contract*; it is the *mode of recovery only, which is changed*. If the proper distinction is observed, between those laws which have reference to the *essence, nature, construction or extent of the contract*, and those which have reference only to the *mode of enforcing the contract*, the question will be plain. The *lex temporis*, &c. the means afforded by the law for enforcing a contract, in case of a breach or non-compliance, *make no part of the contract*, and the modes of bringing suit and of execution, *are different from, and make no part of the contract*. They do not enter into the *essence of the contract*. So the *forms of suit and of execution in our own country, at this time or that, make no part of a contract at one time or the other*, and the Legislature are at liberty to adopt this or that mode of enforcing contracts; *which the circumstances of the country may suggest as expedient*." The Judges say, in the second case: "It is certainly a well settled rule, *that the law at the time the contract was made, composes a part of it, so far as relates to the nature and construction of such contract*; but it is equally well settled, that the *remedy to enforce such contract, must be according to the law in force at the time such remedy is sought*," &c. "Contracts are not made with an eye to the law that shall enforce them, &c. but with an expectation of each party's performing, with good faith, what he has stipulated to do." In the third case, they say: "With respect to the nature and validity of contracts, and the rights and obligations of the parties, arising out of them, the principle is well settled, that *the law of the place where the contract was made, is to govern*; but with regard to the *remedy*, the principle is equally well established, that *the law of the country where the contract is sought to be enforced, ought to be the rule of decision*. The statute of limitations does not affect the validity of contracts, but the time of enforcing them; or, in other words, it does not *destroy the right*, but *withholds the remedy*." In the case of *Stanley vs. Earl*, lately decided, they say, that "the statute of limitations not only destroys the right, but invests the adverse possessor of a slave, with the right to recover him from the true and rightful owner."

The Supreme Court of the United States, in the case of the *Columbia Bank vs. Oakley*, (4 Wheaton 214,) say: "In giving this opinion, we attach no importance to the idea of this being a chartered bank. It is the *remedy*, and not the *right*, and as such, we have no doubt of its being subject to the *will of Congress*. The *forms of administering justice*, and the duties and powers of courts, &c. must forever be subject to legislative will, and the power over them is inalienable, so as to bind subsequent legislatures." And the same court, in the case of *Crowninshield vs. Sturges*, reported in the same book, page 200-1, say: "The distinction be-

tween the *obligation* of a contract and the *remedy* given by the Legislature to enforce that obligation, has been taken at the bar, and *exists in the nature of things*. Without *impairing* the obligation of contracts, the remedy may certainly be *modified*, as the wisdom of the nation may direct," &c.

Here it is seen, that the Judges of the Court of Appeals have said, in three cases, that the *remedy* formed no part of the *obligation* of the contract, and might be *altered, varied and unenacted*, without impairing the contract or its obligation. The Supreme Court of the United States have said the same thing, in strong and distinct terms. Yet the Judges, in the cases of *Blair vs. Williams* and *Lapsley vs. Brashear*, say, that the *remedy constitutes alone the obligation of the contract*, and cannot be varied without impairing that obligation, and that any law varying the remedy, is, on that account, void; that the statute of limitations, by taking away the *remedy*, extinguishes the *right*. They say, that the *right* consists alone in the *remedy*. The Supreme Court say, there is a distinction in the *nature of things*, between *right* and *remedy*.

In the case of *Graves vs. Graves'* executor, Chief Justice Boyle says, that the statute of limitations does not affect the validity of the contract; it does not destroy the *right*, it only withholds the *remedy*. In the late decision, they say, that the replevin bond is void against the creditor, but good against the debtor; that is, that the sovereign people of the State of Kentucky have not the power to pass a law giving validity to the bond; but a single creditor, whether citizen or alien, has the power to give it validity against the debtor and his securities. So that the same law, when enacted by the State, is unconstitutional and void, and when enacted by a *creditor*, is valid and binding; or, in other words, a replevin bond is void against the creditor, because it is a statutory bond, and the statute was void; but it is valid against the debtor and his securities, when the creditor shall choose to have it so, and because he so chooses.

That Court has, in the case of *Stanley vs. Earl*, (5 Littell 281,) pronounced at the last spring term, given an opinion, in which they have employed the whole force of their intellect, to sustain this new doctrine, that *right consists alone in remedy*. They apply, with much emphasis, the term *legal*, to *right* and *remedy*, and by the adjunction of that term to the other two, arrive at a conclusion not very favorable to the good morals of society. The operation which they give to the new principle, excites to the most flagrant dishonesty, by the premium which it accords to its achievements; and they denounce as unfit to be reasoned with, all who do not yield to the force of their reasoning.

The replevin principle had been sanctioned by successive enactments in Virginia and Kentucky, from the formation of the constitution of the United States, and by the State of Virginia for

near half a century anterior to the erection of Kentucky into a State. The valuation principle possessed the sanction of enactments by both States, and by the Congress of the United States. Its practical sanction by the people and their functionaries, legislative and judicial, had, it is believed, become too inveterate to be disturbed, even if it had been erroneous; for there is an inveteracy of practical exposition, even of the constitution itself, which cannot be disturbed.

But the principle, in its practical results, is calculated to convulse society. The sales which have been made of lands and slaves under execution, have been, since the commencement of the government, in the ratio of at least ten to one, upon replevin and forthcoming bonds. If those bonds were all void, as they must be, according to the *new theory of obligation*, it would seem to result, obviously, that the executions were void; and both being void, the sales would also be void, and invest no title in the purchasers. For if there be a truth in the stores of philosophy, more accessible to common sense, and more intelligible to common understanding than any other, it is, that a lawless and void act can invest no right. Out of nothing, *nothing comes*. But the first and most practical result of the opinion, if it had not been prevented by the cautionary enactment of the Legislature, before alluded to, must have been to strike dead at once upon the hands of society, its entire paper medium, which then exceeded, and perhaps now exceeds two millions of dollars, and to subject the property of debtors to instant sale for gold and silver; for who would receive in payment of his debt, a depreciated paper currency, when he could force, without *replevin* and without *valuation*, the sale of his debtor's property, at whatever sacrifice, for gold and silver? The decision was calculated to afford to banking institutions, a jubilee of exemption from legal restraints, in the coercion of their debtors.

Society could not, it cannot now, bear the practical results of the new doctrine. It cannot live under them. It cannot surrender the right to exert, according to the limits prescribed in the constitution for their exertion, those remedial energies with which God and nature endowed it, for the avoidance and mitigation of human misery, and the promotion of human happiness. It was for the right of exerting this power, that the blood of the revolution was shed, and independence achieved, by the patriots of seventy-six; it is for the exertion of this power, that Greece is now prodigal of her blood, and agonizing at every pore—the power of self-government by the people, of suiting, by their legislative enactments, their laws to their condition, and of varying them upon the same principle, when their condition shall be varied.

Your committee, therefore, while they reverence appropriately, the judicial functionaries of the government, and applaud and admire that independence, in that department, which, in giving

effect to the laws, is regardless of every will, but the deliberate will of the people, feel themselves constrained to report as follows:

Resolved by the General Assembly of the Commonwealth of Kentucky, That the principles asserted in the decisions pronounced by the Judges of the Court of Appeals, in the cases of Blair vs. Williams and Lapsley vs. Brashear, are incompatible with the great principles upon which the rights, interests and happiness of the good people of Kentucky depend; that they encroach upon the just and necessary exercise by the Legislature, of the powers accorded by the constitution to that department; that in narrowing the legislative power, they encroach upon the freedom of the people, and the encroachment might, if acquiesced in, be carried to its utter extinction; wherefore, they do most deliberately and solemnly, again, in the name of the good people of this Commonwealth, protest against the obnoxious principles of those decisions, as encroachments upon the fundamental principles of freedom and the inherent rights of the people.

[Approved, January 6, 1825]

A RESOLUTION for a National Salute on the eighth of January 1825.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the Governor be, and he is hereby requested to procure the Artillery Company of Frankfort to fire a national salute on tomorrow at sunrise, in commemoration of our victory at New-Orleans, January 8th, 1815.

[Approved, January 7, 1825.]

A RESOLUTION for uniting the Public Printing.

THE committee appointed to enquire whether the public printing costs more when divided, than when all united in the same office, and whether any advantage has accrued to the public from the division, have performed that duty, and beg leave to report: That by the Treasurer's report, it appears that the expence of the public printing last year, was four thousand three hundred and twenty-one dollars, thirty-seven cents. By reference to the Auditor's and Treasurer's reports, of former years, it will appear that this is at least one thousand dollars more than it ever cost before, except when there has been an extra session of the Legislature, and fifteen hundred dollars more than the usual average cost of that department of the public service. This augmentation of expence has arisen from an unusual amount of printing, an increase in the price of paper and job-work, owing to the depreciation of the currency, and the division of the public printing. The di-

vision of the public printing increases its expence, in this: That for every document ordered to be printed by both houses, the types for precisely the same matter, have to be set up in two printing-offices, and there is an additional charge against the Commonwealth for this increase of labor.

In relation to the second branch of the inquiry, we do not learn that any advantage has accrued to the Commonwealth by the division of the printing. The Journals are not kept up better than they were before, nor are the bills and documents ordered by the Legislature, printed with more expedition, nor have the Acts of Assembly been printed sooner after the close of the session, nor has any thing been gained in point of accuracy.

While the State has lost money, without any equivalent, by this measure, it has also increased the labor, and diminished the profits of the public officers employed in this service. The prices of public printing were reduced as low as competition could reduce them, in 1808, from which period they have remained uniform, up to the present time. They were then fixed at least twenty per cent below the customary prices; but the low prices were compensated by the largeness of the job, the certainty of the pay, and the advantages afforded by printing both the Journals in the same office. These advantages accrued thus: The Governor's messages, and all reports from public institutions and joint committees, were spread upon both Journals, and the printer having once set up his types, transferred them from one to the other, without the labor of setting them over again. But since the division of the printing, this advantage is lost, and all those documents have to be set up in both offices. There are in the Senate Journal of the present session, about one hundred and twenty pages of those documents, which are also inserted word for word in the Journals of this house. We are informed, that setting the types for four pages, is counted a printer's day's work; of course, the increase of labor in the Journals of the present session, caused by the division of the printing, is equal to thirty days' work of one hand.

The pay of the printers, originally low, is reduced much lower by the currency in which they receive it, while a division of their work, has thus augmented their labor. Competition for the office, from different printers, might keep the price down; but if the division is persisted in, it is apprehended that the meagerness of the printer's pay, and this increase of his labor, will lead to an understanding among those to whom it may be distributed, to increase the price, and thus further to augment the cost to the Commonwealth. Sure it is, that the printing cannot be afforded as cheap, when divided, as when united; because there is a large increase of labor, without a corresponding increase of pay; and the present printers unite in the declaration, that the prices of printing the Acts and Journals, were reduced so low in 1808, as to

be very unprofitable; and if this be so, the present increase of labor, and depreciation of currency, must make them more so, and hold out strong inducements for them to ask an increase of pay. This increase of labor also delays the Journals and procrastinates the printing of bills, &c. Were all the printing done in one office, the hands now occupied for days in setting up those long documents a second time, might be employed in bringing forward other parts of the Journal, or printing bills, thus expediting the business of the Legislature. It is the opinion of most of the gentlemen from whom we have sought information, that the distribution of this work necessarily produces delay; that printers enjoying half the profits of this job, cannot afford to keep their offices so well provided with hands, to meet certain emergencies and a press of work, as if they enjoyed the whole; that numerous hands in one office, by being withdrawn from work which is less urgent, and devoted to that which is more so, will always meet the orders of the Legislature with more promptness, than the few hands which can only be employed in each office, when the printing is distributed; and that these numerous hands, turned upon the Laws at the close of the session, will print them sooner than they could be printed under the present system. We are informed, that Congress, after trying the distributive system and suffering its evils, found it necessary to throw all their work into one office, and have profited much by the change, although their printing exceeds that of Kentucky, fifty or a hundred fold.

On the whole, we cannot think a system wise or politic, which increases the expences of the State, reduces the profits of the public officer by an useless augmentation of his labor, tends to produce needless delays in the execution of the public work, together with a further increase of the public expence, and at the same time does not compensate for these evils, by a single public benefit. We, therefore, recommend the adoption of the following resolution:

Resolved by the General Assembly of the Commonwealth of Kentucky,
That the public printing shall not hereafter be divided.

[Approved, January 10, 1825.]

RESOLUTIONS for the erection of Tombstones over the bodies of the Honorable Thomas Dollerhide, late Senator from the county of Pulaski, and the late Governors, Madison and Greenup.

Be it resolved by the Senate and House of Representatives of the Commonwealth of Kentucky, That Thomas S. Page be, and he is hereby appointed to contract for and superintend the erection of a tomb over the body of the honorable Thomas Dollerhide, late Senator from the county of Pulaski, and that the Keeper of the Penitentiary be, and he is hereby authorized and instructed to de-

liver to the said Page, a tombstone now in his possession; and heretofore prepared for that purpose; as also to furnish the said Page with any suitable materials that he may have on hand or be able to furnish, to promote the object above alluded to; and that the said Page make out his Account for the same, the correctness of which being approved of by the Governor, the Auditor of public accounts shall issue his warrant upon the Treasurer for the amount thereof.

And be it further resolved, That the said Page be, and he is hereby authorized and directed to cause the monuments provided for the late lamented Governors, Madison and Greenup, to be erected over their graves.

[Approved, January 10, 1825.]

PREAMBLE and RESOLUTION vindicating the constitutionality of Replevin Laws, and the right of the Legislature to remove Judges for error of opinion, in reply to the response of the Judges of the Court of Appeals.

THE select committee to whom was referred the response of the Judges of the Appellate Court, to the report of the joint committee raised upon that part of the Governor's communication which related to their official conduct, have had that subject under consideration, and beg leave to report the result of their deliberations.

The Judges, at the threshold of their response, question the legitimacy of the mode of proceeding which the Legislature have adopted in their case, and deny to that body the power of removing them from office, for an error in judicial opinion. They assert the principle, that the removal of a Judge from office, by legislative address to the Governor, can only be legitimately effected, upon grounds which relate to the *man*, and not to the *Judge*. They deduce this principle from the two sections of the constitution which relate to the removal from their offices, of judicial and other incumbents. They quote the 3d section of the 5th article of the constitution, which provides that "the Governor and all civil officers shall be liable to impeachment, for any misdemeanor in office," and the 3d section of the 4th article, which provides that "the Judges, both of the supreme and inferior courts, shall hold their offices during good behaviour; but for any *reasonable cause*, which shall *not be sufficient ground of impeachment*, the Governor shall remove any of them, on the address of two-thirds of each house of the General Assembly." They infer from the section first quoted, that as a Judge can be removed by *impeachment only*, for misdemeanor *in office*, a removal by address, on the part of the Legislature, cannot be effected, for any *official* misconduct which he may commit; that, under a just construction of the last quoted section, any *official* misconduct of a Judge, which does not amount

to a misdemeanor in office, cannot form the subject of removal by address; that it cannot be considered a reasonable cause for such removal. This we would suppose to be an illogical inference, a palpable *non sequitur*. But the inference is more objectionable in its *political*, than in its *logical* aspect; because it proclaims indemnity to judicial error, by rendering the Judges, when it is not associated with corruption, wholly irresponsible.

The Judges are profuse in their acknowledgment of their responsibility to the people; and yet, by their construction of these two sections of the constitution, limit their official responsibility to removal from office by impeachment for official misdemeanor alone; thus asserting, in effect, that society must acquiesce in, and submit to, the principles they establish, however erroneous and afflicting those principles may be in their practical operation, provided they are *merely* erroneous, and were established in the course of judicial decision. If they originated in corruption, the remedy lies in removal by impeachment; but for mere *error* of judicial decision, however gross or flagrant, there is no remedy. This doctrine, associated with the new theory of obligation, not only licenses the Judges to err, but absolves them from all obligation to decide correctly; for if obligation consists alone in remedy, and there is no remedy for mere error of judicial opinion, then the Judges are under no obligation to decide correctly, and therefore, violate no duty, when they decide erroneously; and, consequently, ought not to be removed from office, for error in the course of judicial decision.

They urge, further, that the attempt to remove them by address, is an assumption, on the part of the Legislature, of the functions of the judiciary. "Can it (say they) be any thing more, than an attempt, on the part of the Legislature, to re-investigate, and again decide questions purely judicial, and belonging exclusively to our department?" This is, we think, with deference, another *non sequitur*. The proceeding on the part of the Legislature, is not a re-investigation of questions purely judicial, nor is it again deciding the questions; but is an investigation, by that body, of the *conduct* of the Judges, in relation to questions which *they* had investigated, and in relation to the *decision* which *they* had given upon those questions; an investigation authorized, as we believe, by the import of the section of the constitution last quoted. It authorizes the Legislature to remove a Judge by address to the Governor, two-thirds of each house concurring therein, for any *reasonable cause*, which shall not be sufficient ground of impeachment. For a misdemeanor in office, he may be removed by impeachment, under the first section above quoted; but for any cause not of that magnitude, he may be removed by address. The cause alleged for his removal, must be, either intrinsically or relatively, official. It must consist, either in official *mal-agency*, or in an individual

mal-agency, incompatible with his official duty. It must, however, be an *agency*, which does not amount to a misdemeanor in office, and yet of a character so incompatible with his official duty, as to constitute, in the opinion of the Legislature, a *reasonable cause* for his removal, by address to the Governor for that purpose.

The Legislature are the exclusive judges, under the constitution, of the reasonableness of the cause. Their responsibility in the exercise of this discretion, is to the people alone; and it behoves them to see that the causes for such removal be *obviously* and *palpably* reasonable, and that they will appear so to the people; for the proposition, that the causes need only be obviously and palpably so to themselves, would be like the analogous proposition of the Judges, in relation to the obvious and palpable confliction of a law with the constitution. It would, in each case, amount to an assertion of their respective irresponsibilities to the people, *quoad hoc*; [as to that matter;] and, in each case, be an obvious and palpable violation of all the principles of the government; for responsibility is the centre, to which they all converge.

But the position, assumed by the Judges, that the proceeding against them, on the part of the Legislature, by address, is unconstitutional, is not only at war with the literal import of the 3d section of the 4th article of the constitution, above quoted, but with any rational interpretation, which can, according to the established canons of construction, be given to it. It is at war, moreover, with the recorded and known intention of the members of the convention who framed the constitution. The printed Journals of the proceedings of that convention, in the 42d page, afford distinct information on that subject. It appears from those Journals, that when the section now in question was under discussion in the convention, a motion was made to amend it, by inserting the following proviso: "*Provided, also, that no Judge shall be removed, by this form of proceeding, for an official act or judicial opinion;*" and that it was negatived by a vote of forty against twelve. So that the Judges would not seem to have furnished, in their exposition of this section, the happiest specimen of that constitution-expounding talent, which they assert it is their province to exert, for the purpose of protecting the rights of the poor and the obscure, from legislative encroachment, and to keep that body in check. But whence that exposition of the constitution, by the highest judicial tribunal of the State, which so flagrantly outrages the import of its words, and the recorded intention of its framers? It cannot have been made by the Judges, in the view to escape the effect of the proceeding against them by address, on the part of the Legislature. The conscious self-worth; which the incumbents of the appellate bench must be supposed to feel, and the intelligence which they must be supposed to possess, alike forbid the idea that they would attempt to elude the judgment of the Legislature upon

the address, by a sham plea to the jurisdiction of that tribunal, or that the exposition they have given to that section, is the best exertion of appellate intelligence and capacity. Is it not more just and natural, and does it not better accord with history and observation, to suppose that they have been imperceptibly and unconsciously led by the influence of official posture and official habit, to that interpretation which enlarges their sphere of power, and at the same time exempts its exercise from responsibility? And ought not that supposition to excite the jealousy, and awaken the vigilance of the people? When they see the highest functionaries of the judicial department openly avow and publish a flagrant perversion of a plain and simple section of the constitution, contrary to its obvious literal import, and in defiance of the known and recorded meaning and intention of those who framed that instrument, ought they not to be jealous of judicial interpretation? In fine, ought they not to require of the Judges, that a law should be *obviously and palpably* in confliction with the constitution, before they should annul it; and that it should be so, not to the judicial mind only, but to the public mind; that it should not be vacated by dubious construction? And ought they not, at least, to oppose the claim now asserted by the Judges, of the *right* to construe it erroneously, without responsibility?

But who can see what might be the extent, in their practical results, of the sanctity and irresponsibility of judicial error, asserted by the Judges, for their department? Suppose they were to declare that all the laws in relation to conveyances, and to wills and testaments, were unconstitutional, and thereby unsettle and endanger all the landed and slave tenures within the State; could the people be content to be told, that the declaration was made by the Judges in the course of judicial decision; that, if it was an error, it was one of the head, and not of the heart, and therefore could not subject them to removal from office by impeachment, not being a misdemeanor in office; and not being removable in that way, they could not be removed by legislative address, because the objection is to their official conduct, and does not amount to a misdemeanor in office? That is the doctrine asserted in the response. If it should be said, that such a declaration of the Judges, in relation to the laws of conveyancing, and last wills and testaments, is extremely improbable, may it not be replied, that it is not more so, than it was three years ago, that they would declare the replevin principle to be unconstitutional, or, that the obligation of a contract consists *alone* in the remedy? There can be no limits prescribed to the vagrancy of official discretion, when it is left unbridled and irresponsible. The replevin principle is older, in the history of mankind, as will appear hereafter, than the principle of conveyancing, or that of last wills and testaments; and the new theory of obligation, is of very recent origin. It was alike un-

known to the English and American jurists, and its votaries seem to display more of zeal to propagate it, than of felicity in comprehending and explaining it. Its principal charms, in the eyes of its admirers, would seem to be its novelty and its mystery.

The Judges are profusely elaborate and prolix, in their response, to prove what was not only not denied, but admitted, in the report of the joint committee, viz. that the judiciary possess the power to declare a law to be unconstitutional. The only point of difference between *their sentiment* and *that of the report*, upon this subject, is, that the report concedes the exercise of this power to the Judges, to be displayed by them only in the course of judicial duty, and as incidental to the exercise of that duty, and subject, moreover, to the appropriate responsibility. They assert the right to exercise *that power*, in the view to *check* the legislative department, and restrain its proneness to encroach upon the rights of the people. The alleged proneness to encroach upon the people's rights, by that department, is not admitted; and if it were, the inaptitude of the judicial, to check the legislative department, and the reasons evincing that inaptitude, drawn from the structure, powers, duties and responsibilities of the respective departments, under our form of government, were shown at some length in the report, and need not be repeated here. The present proceeding must be acknowledged, even by the Judges themselves, to be a form of legislative agency, which they do not possess the power to check or control; and the attempt which they have made to check it, by the construction which they have given, in their response, to the 3d section of the 4th article of the constitution, illustrates what would be the erratic and dangerous tendency of such a lodgment of power in that department.

The response presents a long array of cases, in which, according to their notion, the Legislature have, in their enactments, violated the constitution; for they seem to take it for granted, that every law which they, and other Judges, have declared to be unconstitutional, was in reality so; that is saying, in effect, that the judiciary never err, and that the Legislature are prone to error. Every court, in declaring a law to be unconstitutional, may, if it shall choose, indulge in a double process: First, in ascertaining by construction, what was the intention of the framers of the law; and then, in ascertaining, by the same means, the intention of those who framed the constitution. And if the Judges, in each process, should err as palpably as the respondents have done in the construction of the section above quoted, the probability would be at least as strong, that the laws were valid, as that they were unconstitutional; that the Judges had indulged their *fancied* prerogative, of checking the legislative department, as that that department had transcended its legitimate sphere of action. The case of the State of New-Hampshire and Dartmouth College, and

that of the State of Virginia and Cohens, as also that of Marberry and Madison, are believed to be unhappy citations. In the first, the Judges of the Supreme Court of the United States fastened upon the State of New-Hampshire a corporation established by royal charter, long anterior to the American revolution, declared that it remained unaffected by that revolution, and denied to the State the power of affecting it by legislation. In the second case, the principle of consolidation was believed to be established by the same court, in the jurisdiction which it assumed of the case; and in the third, the President of the United States was made to succumb, for party purposes, to the same tribunal. In all the cases, the court was believed, by the majority of those acquainted with their facts and circumstances, to have exerted a power of construction, not entirely sanctioned by sound policy, and the true spirit of the constitution. The case of the Commonwealth against Morrison, is not a more happy citation. In that case, the appellate Judges declared the law of Congress authorizing the Bank of the United States to locate offices of discount and deposit in the several States, to be unconstitutional, and a majority of the court, in the same breath, admitted it to be valid, and binding upon the State of Kentucky; and that for the sole reason, that the Supreme Court of the United States had, in the case of M'Culloch and the State of Maryland, affirmed its validity; thereby surrendering the inherent and sovereign power of their State, the power of taxing the capital of that institution within this State, to the nod of that tribunal. But cases do not alter principle. They may illustrate or violate principle; they cannot alter it. If correct principle were always with the majority of cases, then the American people should surrender their freedom, abolish their governments, and establish aristocratical, monarchical and despotic governments in their stead, for those governments are greatly more numerous than republics; and on the same principle, the legislative power must soon be surrendered to judicial control; for cases in support of that doctrine are multiplying very rapidly.

The Judges descant, in their response, with much emphasis, and at great length, upon the importance of the independence of the judiciary. Upon that subject all men agree. They agree that the Judges should possess all the independence, which is compatible with the responsible relation which they bear to the sovereign power of the State. But that independence, which consists in a power to check or control its parent source, is believed to be reprobated by the principle of fitness, which results from the relation which must necessarily exist between sovereign and subject.

The Judges have been as unhappy in their exposition of the history of the American revolution, as in their construction of the 5d section of the 4th article of the constitution. The grievance

complained of by the Americans, was not, as we, with deference, suppose, the *dependence*, but the *independence* of the judiciary. It was, that their lives, their liberties, and their property, were subjected to the decision of Judges, who were, by their appointment and pay, placed in a state of too much independence of them. The King and the Parliament, by taking from the colonies the appointment and pay of the Judges, destroyed that relation of *dependence*, which should always subsist between the people and their Judges, as the medium of the responsibility of the latter to the former, and as the necessary guarantee for the performance of their duties, by the Judges, to the people; so that the sentiment of the patriots of the revolution, was in strict accordance with that of the report, in relation to the independence of the judiciary. It was, that the judiciary should, in the performance of its duties, be unconscious of any dependence, except that upon its God and the people, to both of whom it sustained relations of dependence somewhat analogous, and from which it would be *impious* in the one case, and *treasonable* in the other, to attempt to disengage itself; and not less treasonable in the latter, than impious in the former; and upon the same principle—that of rational and necessary dependence in both.

The Judges seem not to have perceived the principle upon which the boasted independence of the English judiciary rested. It is the dependence of the Judges upon the people, for their salaries and the tenure of their offices. Anciently, the King appointed and paid the Judges, and they were called the *King's Judges*; but afterwards, the people, in the assertion of their natural and inherent rights, claimed and obtained the right of paying and regulating the pay of the Judges, and of removing them from office, by the vote of a majority of Parliament. Then it was, that judicial *independence* first displayed its effulgence in that country, when their dependence on the people was established. Their dependence on the people was, in effect, their independence of the crown; and the crown being, in that country, the source whence oppression was to be apprehended, their dependence on the people, through the representative principle, constituted that independence which has been so much blazoned, and which secured the people from the rigors of royal power, and secured to them the enforcement of their will, displayed in their laws, as the rule of their rights and their tenures; for the Judges then, did not claim, as an ingredient in their independence, the right to check the legislative department; nor did they, nor dare they, then, assert their want of dependence upon the public will. So that the independence of the judiciary in England, when examined into, will be found to consist in the facts, that their salaries and the tenure of their offices depend upon the *will of the people*; and in the fact, that their decisions are subject to supervision and reversal, by the House of Lords.

The Judges, enamored with the misconceived independence of the English judiciary, exclaim, in apparent rapture, "This (the independence of the Judges) is the *only feature of freedom* in that (the English) government, and this alone fixes her pre-eminence over other monarchies, her omnipotent Parliament, and the want of a written constitution, notwithstanding." Strange, that they should rate as *nothing*, the practical enjoyment of the representative principle, by the people of that country; and the concessions in Magna Charta, extorted by the people from the crown! But the rights of the people do not seem to have occupied their attention; in their response, as worthy of any other than judicial regard; and in that regard, only as they furnish to the Judges an opportunity of displaying judicial independence, in protecting them from legislative encroachment and ravage. How could they otherwise have overlooked the representative principle, which, crippled as it is in that country, has nevertheless, by giving efficacy to the will of the people, so promoted the prosperity, and advanced the happiness of England, and that, too, in defiance of the mal-conformation of its government, as to excite the wonder, the admiration, and the envy, of the governments of Europe? History blazes with the glories of that nation; but the Judges do not perceive, that those glories are the trophies of the representative principle, the results of the freedom enjoyed through its instrumentality, and not the achievements of the comparatively puny mite of judicial independence; that they are the irradiations of the confluent will of ten millions of people, and not the twinkling scintillations of the independence of the twelve Judges and the Lord Chancellor. When Lord Chancellor Bacon displayed his want of dependence upon, and regard for, the public will, in the acceptance of bribes, the omnipotence of that will was displayed in Parliament, and he was feign to resign the seals, and invoke the mercy of the royal prerogative. He retained his life, but lost his office.

Another mighty incentive, in England, to that independence of the Judges, of the Crown, is the consideration, that though the King can bestow offices and titles, he cannot bestow *fame*. It is reserved for public opinion, to confer that exalted meed; and he who would obtain a boon of such worth, must not contemn the tribunal which alone can award it. In England, the Judges are dependent upon the people, as they shall display their will in the legislative department alone; in this country, they are dependent upon the will of the people, as it has displayed itself in the constitution, and may be displayed by the Legislature; and, as it has been said in the report, its display in the latter, is subject only to the restraints imposed by the former.

But if the legislative will is so erratic, and so prone to oppress the poor and the obscure, as it is represented to be in the response, when unchecked by judicial independence, how comes it that the

history of that government is so silent in relation to legislative encroachments upon the rights of the people? How comes it, that Judges have obtained immortality of fame, by the independence which they have displayed, not in checking or controlling, but in *executing literally, the will of the people*, as embodied in the laws? How, but from the intrinsic purity of the social will of civil society, and from the dependence of the Judges upon it, which leads them to execute it faithfully? The Judges seem not to comprehend that man is social and religious, as well as selfish, and that in civil society, the social will is the sovereign power of the State; that his will as a citizen, is a portion of the unerring will of civil society, which constitutes the sovereign power, and controls and regulates his will as a man: When they shall have ascertained by examination and reflection, that there is a *real and palpable*, not a *nice, obscure and doubtful* distinction, between the *social compact* and the *constitution*, they will comprehend this fundamental and essential truth. They will then comprehend, also, that the legislative power is derived from the people, through the social compact; that the constitution does not originate the legislative power, but pre-supposes its existence, and prescribes the mode in which it shall be exercised, and imposes restraints upon its exercise; and that, by that compact, civil society possessed the power to legislate, adjudicate, and execute, according to its discretion; that, by the constitution, a mode is prescribed for the exercise of these powers by functionaries, and their exercise by the respective functionaries, restrained and limited. The constitution could not create the power; it could only create the functionaries. It is a power of attorney made out by the corporate and moral person, civil society, designating the legislative and executive agents, and prescribing and defining their powers and duties. This moral person, the people, in a state of civil society, still exists under the social compact, and in its character of *sovereign*, superintends, watches and controls its agents, according to the mode which it has prescribed to itself in the constitution. It holds all its functionaries strictly responsible for the faithful discharge of their duties; and because the responsibility of the legislative functionaries is more strict, and of more frequent recurrence, they are employed as the organ through which the executive agents are called to account. The people take their representatives to account annually, and test the fidelity of their agency, that they may the more safely confide to them the examination of their other agents. But how a tribunal that does not acknowledge the existence, and comprehend the nature and obligatory import of the social compact, can think itself competent to the decision of a constitutional question, it is difficult to conceive, and especially one involving the nature and essence of legal obligation. To the obligatory effect of that compact, the *assent* of every member of

civil society, is acknowledged by all jurists, to be indispensably necessary—of each with all, and of all with each; and the obligatory effect of the contract upon each; and upon all, consists in, and results from the consent of each and all, and its obligation is essentially legal, as well as moral. It is upon valid consideration, viz. the unqualified surrender by each member, of his person and his property, to the regulation and control of the will of the society, and the undertaking, on the part of the society, to control and regulate both, in that way which shall be most conducive to his happiness and the prosperity of the State. Here, the two ingredients mentioned in the report, and derided in the response, are essential to the validity of the obligation of the social compact, viz. the consent of the parties, upon a valid consideration; and these two ingredients constitute exclusively, the essential basis of its obligation, and on the same principle, the essential basis of every legal obligation. It is admitted by all jurists, that the social contract, or compact, is mutually binding upon each and upon all who assent to it; and upon the same principle, that it binds no one who has not assented to it. Indeed, it is a principle of acknowledged force, that the obligation of a contract must be *mutual*; that it binds both the contracting parties, who were competent to assent, and did assent to it, or neither. But how can the social compact be mutually binding, according to the new theory? There is no remedy against society, if it should fail to protect or do justice to any one of its members; and as obligation consists, according to the Judges, in remedy alone, the civil society can be under no obligation to do justice to a citizen, or protect him against injury, or afford him redress for an injury inflicted. Indeed, it is under no obligation to abstain from plundering him; because there is no remedy, in case it should refuse redress for, or inflict injury. In relation to the individual member of society, there would be obligation enough; (if it were possible to conceive of an obligation of a valid contract, which was *one-sided only*—which was obligatory upon one, and not both of the contracting parties;) because there is, or may be force enough exerted upon him. But is there not an evident distinction between the force of an obligation and personal constraint? When an idiot is imprisoned, to restrain him from doing an injury to himself or others, the force employed by the government in his imprisonment, is certainly of the remedial character. Society is discharging, in the exertion of its force in that instance, the obligation which it incurred by the social compact. But what obligation does there exist, or did there ever exist, or could there without a miracle exist, on his part, to abstain from injuring himself or others? And does not his incapacity to incur obligation or guilt, consist in his incapacity to exert will—in his destitution of volition? And can it be said, that the force exerted by government in his imprisonment,

was his obligation to refrain from injuring himself or others. But he is incapable of incurring obligation; the force, therefore, in his case, is not obligation—it is *constraint*. Suppose a debtor thrown into the same jail, for the non-payment of his debt. He did not only not consent, but actually opposed his will to his imprisonment. There was then, in his case, like that of the idiot, the absence of assenting will; neither consented to his confinement—the former actually opposed it. It was constraint, and not obligation, in the idiot's case. Why not the same in the debtor's case? The agent, viz. society, was the same in both cases. All the external acts in which the force consisted, were the same in each. The power exerted, was the remedial power of society, in both cases. Why shall it be constraint in the one case, and obligation in the other? If it be said, that the consent of the debtor to the contract in which he incurred the debt, makes the difference, it is replied, that, in that very exercise of his volition, upon a valid consideration, consisted the essence of his obligation; and that his imprisonment was the constraining remedial force of society, exerted to enforce a compliance with that obligation, or reparation for its violation; for if obligation consisted merely in the exertion of the remedial force of society, then the idiot is capable of obligation, and incurred it in the act by which he was imprisoned. This theory would make obligation consist, not in any active exercise of the will, nor in any exercise in which it was concerned, actively or passively; but in *constraint alone*. But the Judges seem to intimate strongly, in their response, that idiots can incur obligation; for they say, that idiots, lunatics, &c. have a right to vote. They have not, to be sure, told us in what remedy that right consists; but having told us that every right consists in the remedy for its enforcement, and that there is no right without a remedy, it follows, according to the opinion of the Judges of the Court of Appeals, that idiots can contract or incur obligation; and that having a right to vote, should society do them the injustice to refuse to permit them to exercise that right, there is in the judicial arcana, a remedy for its enforcement, whether mandatory or reparatory, we are not told.

It has been believed, heretofore, and so taught by all the doctors, that idiots could neither contract obligation nor incur guilt, *propter defectum voluntatis*, [on account of want of will;] that where there could exist no conscience, there could exist no obligation, either religious, moral or legal; for conscience was believed to have something to do, in contracting obligation or incurring guilt. But if obligation consists in remedy, and remedy consists in force, then intellection is unnecessary in contracting obligation, and idiots or lunatics can as well incur obligation, as sages or philosophers. Whenever they are *overpowered*, they are *laid under obligation*; and upon that principle, a contract *extorted by force*, pro-

duces an obligation, generated by obligation, which should be enforced by the swiftest remedy; that is, according to modern interpretation, the *swiftest obligation*. Upon that principle, also, the Christian is under obligation to sin, whenever temptation to do so becomes so strong, that he is unable to resist it. But the old notion, in relation as well to the contract extorted by force, as to the duty of the Christian, in case of temptation, was, that the contract had no obligatory effect, either legal or moral, because the assent to it was *forced*, and not *free*; and that the Christian was under no obligation to sin, because of the strength of the temptation to do so; on the contrary, that his duty to resist the temptation, was increased in proportion to its strength. Hence, *Joseph* was applauded for resisting, and *Judas* was execrated for yielding to strong temptation.

But upon the new theory, what remedy is there for the violation of his duty, by the father, to attend to the instruction of his children, in relation to their selfish, social and religious, or even their political duties? Not any. Is he therefore under no obligation, in a state of civil society, to perform those duties? What is the obligation to female chastity in wedlock? Is it not obviously and inconceivably great, viewed as a principle of *fitness*, resulting from, not only the marriage relation, but all the relations of life? Does not *matron chastity* diffuse its divine aroma over the total of the social relations, and of human existence? Is not the former sweetened, and the latter brightened, ineffably, by its celestial influences? Do not the virgin innocence of the daughters, and the manly virtues of the sons, shine the brighter in the reflected excellence of their mother; and does it not throw upon the countenance of the husband, the sacred unction of equanimity and contentment? And yet their Honors will tell us, they must tell us, that the obligation to the performance of the duties which constitute this transcendent excellence of female character, consists alone in the infliction of a fine of \$16 66 2-3 in Commonwealth's paper, to be paid too, in case of the conviction of the wife, by the injured husband! That is the extent and shape of the punitive remedy, and the obligation, they tell us, consists alone in the remedy—"it can consist in nothing else." And the obligation to virgin innocence and purity of character, consists, as the same Judges must tell us, in the liability of the maid who shall submit to defilement, and be convicted of it, to a fine of \$8 33 1-3 like currency. That is the legal remedy, and they again tell us that obligation consists alone in the remedy.

But upon the principle assumed by the Judges, the only obligation in civil society, to abstain from the crime of murder, is in the law which subjects the offender, upon conviction, to the punishment of death. The law which proclaims, "thou shalt not kill," though divine as well as human, imposes no obligation; it is a de-

declaratory law, and though promulged as a rule of action, both by divine and human authority, is unobligatory, because the obligation consists *alone* in the punitive force of society—in the remedy. It is in vain to say, that this punitive force of this remedial law, renders its subject incapable of perceiving its obligation, the moment it is applied. It expires at the moment of its birth, and in displaying its force, displays its inefficacy. If it should be said, that the Judges meant that the obligation consists in the *apprehension* of the remedial force of society, it is replied, they have not said so. They have said, that it consists alone in the remedy; that it can consist in nothing else. The apprehension of the remedy, is something else than the remedy itself; they could not, therefore, have meant the apprehension of the remedy; but if they did, fear can be the obligation to duty with *slaves* only. Intelligent freemen perceive higher motives to duty, in the eternal principles of fitness, resulting from their destiny and the various relations which they sustain; principles of fitness recognized and adopted by civil society, and promulged in its declaratory system, as the rules of the conduct and duties of its citizens.

In the promulgation of a declaratory law, the sovereign power is as much exerted, as in that of a remedial law. They are both acts of sovereignty; and to say that the first imposes no obligation, is to say that its violation is no offence; and consequently, that society commits murder, in every instance in which she executes a malefactor; if, indeed, society can, under the new theory, commit that crime; for, there being no remedy against her, she can be under no obligation to abstain from that or any other crime. It is the opinion of many able jurists, that the right which society has to execute the culprit for his crime, is derived from his surrender, in the social compact, of himself and all his rights of person and of property, to the regulation and control of civil society; *all* agree, that that is the source of the legitimacy of the power of society over every thing that concerns him, except his life. But Burlemaque and some other jurists of great distinction, are of opinion, that as man derived his life from Almighty God, it was not competent for him to surrender to society, by the social, or any other compact, the right to take it away; that the right by which society condemns and executes a malefactor, is the inherent right of self-defence, on her part; that the malefactor, by violating the obligation of the declaratory law, had waged war against society, and that, of course, his destruction was a defensive effort on the part of civil society. And this seems to have been the earliest opinion of mankind upon this subject; for *Cain*, immediately after he had slain *Abel*, exclaimed that every one who should find him, would slay him; thus indicating his consciousness that in the act he had done, he had violated the *obligation* of the declaratory law against murder, and thereby waged war against

the community, and therefore might be justly destroyed by any member of it.

Now, if the theory of Burlemaque be right, what becomes of that of the Judges? Will they dispose of the doctrine of that great jurist, by the force of their Latin maxim, "*contra negentem principia non disputandum*," which, interpreted, means "that there is no arguing with a fool?" But this author ranks as high in public opinion, as a jurist, as any author who has ever undertaken to unfold the principles of the laws of nature and nations. Nevertheless, it will be readily admitted, that the dead have no right to govern the living; and that the dicta of no man, dead or living, should have any obligatory effect upon the mind of another, further than their correctness is recognized by his reason. Reason is that divine afflatus, without which there can be no obligation, moral, legal or religious. It must necessarily be the agent and the subject of all obligation of which man is susceptible. It is that *alone* which constitutes the man, in regard to obligation of every kind. It is by the power of his *reason*, that he discerns the *rule*, and comprehends the extent of its import, and the duties which result. It is upon his reason that its obligatory force acts, winning or constraining by all the motives which can act upon his intellection or conscience, the assent of his will to the performance of the duties it enjoins. It is upon this principle, that an obligation cannot be contracted, or guilt incurred, by a person destitute of reason; nor was it ever known, before it was promulged in the response, that an idiot had a right to vote at a general election, or that he could at all participate in the formation or administration of the government. Reason is necessary, not less to valid agency, than to valid obligation. It would be as reasonable, to say that a dead man, as that a living man, unenlightened and incapable of being enlightened by reason, could do a valid act or contract a valid obligation. It would seem to follow, if this reasoning be correct; that every law to be found in the declaratory system, should be considered as obligatory, intrinsically and legally so, upon those to whom it is prescribed as a rule of conduct; obligatory, because it is the will of the sovereign, and because they assented, in the social compact, to be regulated and controlled by that will, and because their reason is convinced that its observance will conduce to their happiness and the happiness of society. Reason, it is acknowledged, will perceive in the remedial, *many motives* to conform to the obligations of the declaratory system, and will, no doubt, be greatly influenced by them; but that the remedial furnishes the *only and exclusive motives* for the observance of the declaratory system, is a doctrine which disfranchises reason, dethrones will, and degrades man below the level of even instinct. It, in effect, banishes morals, religion and government, from the world. Heaven addresses itself to the *reason* of man, when it

would awaken him to a sense of obligation. "*Come, let us reason together,*" is the style of the Sovereign of the Universe, in relation to the duty of his creature, man; nor will the Omnipotent even save a sinner by doing *violence* to his will. His language is, "Why will ye perish? Turn ye, rather, and be ye saved." But what will the Judges do with the covenant which was made by Divine Majesty with the Patriarch? Wherein consisted its obligatory force? What obligation was incurred by the Almighty towards Abraham, in that contract? What remedy had he, in case of its violation [the very idea shocks us] on the part of Heaven? None; of course there was, according to the Judges, *no obligation* on the part of Heaven; and of course the doctrine ascribes to Heaven the doing of an idle and illusory act. The same consequences result from the same doctrine, in relation to the covenant of Works and the covenant of Grace, the great fundamentals of revealed religion—to the decalogue, and even to the blessed promises and injunctions of the Gospel. There is no remedy for a failure to perform them, against either the sovereign or the subject, and of course they import no obligation; for the doctrine is, that *obligation* consists *alone* in *remedy*. According to this doctrine, religion is an idle illusion, degrading to its author, and humiliating even to man. According to this doctrine, the glorious perfections of the divine character, displayed in the gracious condescension of Heaven, in its address to the reason of man, produce in his mind no consciousness of the duties which result from the relative posture which he occupies, and impose upon him no obligation to perform them. According to this doctrine, the first declaratory enactment of Heaven, forbidding man to eat of the fruit of the tree of knowledge, imposed upon him no obligation to abstain from eating that fruit; the obligation was in the commination, "the day thou eatest thereof, thou shalt surely die." So that man was turned out of Eden for the violation of a command, which, according to the Judges, imposed no obligation, and of course, for the violation of no duty, and that too, by divine wisdom and goodness. And what is more extraordinary, he was permitted, by a *retrospective* act of divine remedial legislation, to *replevy* the debt which he had incurred by the violation of a law, which, according to them, imposed no obligation, and of course for the violation of *no duty*. Here is a state of facts and inferences, sanctioned by divine intelligence, in the practical exposition of them, which must turn out to have been absurd and silly, (with reverence be it said,) if the doctrine of the Judges be right. They will at least admit, that the retroactive replevin law was, if not *constitutional*, admirable adapted to the frail *constitution* of man; that it was a glorious *relief law*, and has been graciously followed by *relief* enactments, up, through that still more glorious *relief measure*, the incarnation, passion and resurrection of our blessed Redeemer, to the present

day. Surely the Judges could not have been apprised of the consequences of their new theory of obligation; that it is incompatible with the free agency of man—with any system of government, except that of the most unqualified despotism—with any system of religion, whether natural or revealed—with any system of good morals, and with any system of logic heretofore known; for it excludes all efficient induction in relation to obligation, from the *a priori* source.

But, according to their own doctrine, the Judges have no right to occupy their seats upon the appellate bench. They claim to sit there by virtue of their commissions from the government; but their right does not consist in the will of the government, certified in their commissions; nor does it consist in any provisions of the constitution, in relation to their department or its incumbents; nor does it consist in the will of civil society, declared in the constitution, in relation to their tenure of office. It consists *alone* in the *remedy* afforded them for the enforcement or protection of their right; and as there can exist no remedy against civil society, or the sovereign power, if it should remove them from their seats, they can have *no right* to occupy them; and, *e converso*, as obligation and right, *alias* remedy, are “correlative, correspondent and commensurable,” civil society is under no obligation to maintain or protect them in their seats. This is considered a fair application of the doctrine of the Judges, to their own case, and affords them an opportunity to furnish the practical illustration.

They seem to complain that they have been charged in the report, with vacating, in effect, the occupying claimant laws of the State, when, in fact, they had determined that those laws were valid and binding. That charge was predicated upon the effect of the principle which they had settled, in relation to the obligation of contracts. They had laid it down, in the case of *Blair and Williams*, in page 45 of 4th Littell's Reports, “that although the obligation of a contract cannot exist before the contract, it most obviously must exist cotemporaneously with the contract. The contract gives to the one party a right, and of course, must give rise to the obligation of the other; for the right and the obligation are correlative, and their existence must be simultaneous. It is, then, the *remedy* allowed by law, in *force at the date of the contract*, being that on the *faith* of which the *contract was made*, which constitutes its obligation;” and they had in that case declared, that the statute altering injuriously to the creditor, the remedy which existed at the date of his contract, was unconstitutional and void. Now, the patent from the Commonwealth to the grantee, has been declared by the Supreme Court of the United States, to be a *contract* between him and the government; [see *Fletcher vs. Peck*, 6 Cranch, page 87;] and according to our Appellate Court, the obligation of every contract is the *existing remedy at its date*, and any variation or addition to that remedy, injuriously to the obligee, is uncon-

stitutional and void. But there were no occupying claimant laws at the date of the *grants*, with which the people of Kentucky have been so much harrassed, and the provisions of those laws subject the successful grantees to disbursements of money, or to sales of their land, to which they were not subjected by the remedial laws which existed at the date of the emanation of those grants. Therefore, according to the new doctrine of obligation, settled by the Appellate Judges, the provisions of the occupant laws must be unconstitutional and void; and, therefore, the decision pronounced by those Judges, in the cases of *Blair and Williams*, and *Lapsley and Brashear*, does, in effect, unless the Judges are determined to disregard all consistency, vacate the occupying claimant laws of this State. In like manner, the laws in relation to forthcoming bonds; to the sale of property under execution, upon a limited credit; and the laws in relation to the valuation of property subjected to sale under execution; and the seven years' limitation law, must likewise fall, upon the same principle; and the assurance given by the Court, that they had sustained the occupying claimant laws, can afford to the people of Kentucky but little comfort, when they reflect that the replevin principle, which they have now prostrated, had lived and displayed, under judicial nurture and support, tacit or express, its benignant effects, throughout all the vicissitudes which society has experienced, for more than half a century; and that the principle employed in its prostration, must alike prostrate, not only the occupying claimant and other laws, to which reference has been made, but prostrate the legislative remedial energies of the State. The Judges ought not to complain that the people require of them to be consistent. They seem to think, in their response, that if they *decide right*, they may be permitted to *reason wrong*, forgetting that a *right* decision, upon *wrong* reasoning, is *accidental*. Every decision must, from the organic nature of man, be the result of intellection or sensation, or the conjoint effect of both. Vitiating sensation, or feeble intellection, are incompetent to the duties of judicial decision. The forum, and especially the appellate forum, is not to be the theatre of caprice, or of impulse. "*Dulce est aequando ineptiare*," [It is sometimes pleasant, to indulge in folly,] is a sentiment, which, however it may sweeten the hours of leisure and relaxation, cannot be tolerated on the bench. The judicial functionaries are selected and elevated for their wisdom, and must be expected, by a rational people, to reason right, as well as decide correctly. "*Sic volo, sic jubeo*," [thus I will—thus I command,] is the language of tyranny. The Judge who decides without giving the reason of his decision, says to the people, in the language of Cæsar, that *his reason* is in *his will*; and bad reasoning had better remain in his will than be published; for if it is not worse, it certainly is not better, than no reasoning. But the people pay for the reasoning of

the Appellate Judges, in the salary which they give to the Reporter of the decisions of that Court; and the idea that they should be content with the decision of a Judge, if they believed it right, without regarding his reasons for it, however it might suit the notions of a people who can tolerate an inquisition, does not suit the meridian of this republic. But how can the people know or believe a judicial opinion to be correct, unless they are informed of the reasoning which led the Judge to the conclusion, which is called his opinion? A conclusion is the result of the inferences drawn from admitted or established facts and principles; and the reasoning consists in the process of arranging, comparing and combining the facts and principles, and in drawing the appropriate inferences from them; and it is in the display, by the Judges, of this process, that their responsibility mainly consists. Hence the Appellate Judges are required by law to embody, in their opinion, a written statement of the case. The request, therefore, that the people should be content with the decision, without the reasoning of the Court in support of it, is, in effect, to request that the Judges should be exempt from the appropriate judicial responsibility. But their theory of obligation, is worthy of further and more particular attention. It shall have it.

The Judges, in their response, say: "We can have no idea of an obligation which does not *oblige* us to *do*, or *abstain from doing something*; for an obligation which does not *oblige*, is a *contradiction* in terms, and of which it is impossible for the human mind to have any conception." With great deference to the Judges, it is affirmed, that the human mind may have a conception of numberless obligations, which do not, according to their understanding of obligation, oblige one to do, or abstain from doing something. A man is under obligation to pay his just debts; but he may be insolvent and unable to pay them, or he may be dishonest and artful; so that neither the obligation he is under, nor the whole power of the law, can oblige him to pay them. All men are under obligation not to cheat, steal, rob or murder; yet this obligation does not oblige them to abstain from fraud, theft, robbery and murder. If indeed it be true that there can be no obligation which does not oblige us to do, or abstain from doing something, then the insolvent man, or the man who has sufficient dishonesty and art, to evade or elude the laws of his country, is under no obligation to pay his debts; the swindler is under no obligation to act honestly; the thief is under no obligation to respect his neighbor's property; the robber is under no obligation to restrain his hand from violence; and the murderer destroys his obligation to regard the life of his fellow-being, by the very act of taking it away. It ought not to be overlooked, that this *definition* applies as well to *moral* as to *legal obligations*. By its principles, the convicts in the Penitentiary have violated no obligation, either of law or morals; the mur-

derer who swings from the gallows, has disregarded no obligation imposed upon him by God or man; and upon the same principle, the punishments of the future world are unjust, because the wicked are under no obligations, either of morality or religion. Thus, this new theory of obligation, destroys all obligation; or rather, makes it depend upon the caprice or the power of men. By it, moral obligations are made to depend upon their caprice; for they do not compel men to do, or abstain from doing something, unless they choose; and, therefore, moral obligations themselves, instead of obliging, are made to depend upon the vilitations of men. The good choose to be under moral obligations, and they are under them; the bad choose not to be under moral obligations, and they are not under them. So in relation to legal obligations; if men have power to *evade* or *defy the laws*, they are under no legal obligations; but if they can do neither, then they are under legal obligations. Thus, a man's legal obligations, are in exact proportion to his cunning and his power. The poor and the weak, whom the laws oblige, are under legal obligations; but the artful and the strong, who can escape the coercion of the law, by fraud, or force, are under no legal obligations. These consequences, however they may shock the sensibility of the public mind, by their intrinsic inaptitude to promote virtue and good order in society, and, of course, human happiness, must flow from the principles of the new theory of obligation. How much more beautiful and consistent, is the old system; the system of society, of nature, and of God. By that, all men's obligations were equal. In the moral world, the good and the bad were equally under obligations to promote the happiness of the human family. The good were *obliged* by those obligations, and were rewarded above, for their obedience to the will of Heaven; the bad were not *obliged*, and for the violation of those obligations springing from the will of Heaven, were punished in outer darkness. So in the civil world, the good citizen who fulfils his obligations to society, was rewarded with protection and peace; but the bad man who disregarded all those obligations, was punished in proportion to the enormity of his offences.

In the opinion pronounced in the case of *Blair and Williams*, upon the replevin laws, (pamphlet edition, page 8,) the Chief Justice, speaking of moral obligation, says: "It is an inherent attribute of the moral nature of man, and *not the creature of civil institutions, and can neither be given nor taken away by human laws.*" This observation relative to moral obligation, evidently sprung from the fanciful theory the Chief Justice had formed in his own mind, by which moral obligation could only result from the laws of nature, and legal obligation only from the remedies allowed to enforce the laws of society. But further reflection has led his mind, and the minds of his judicial brethren, to a conclusion, which the

common sense of all mankind has recognized for ages, viz. that there is a species of obligation distinct from these two, springing from human laws. In their response, they proceed to contradict the foregoing declaration of the Chief Justice, in the following words: "In points of indifference, where there could exist no duty without the intervention of the municipal law, *that law* may, no doubt, by merely declaring what is right, and directing it to be done, *impose an obligation to observe it*; but without superadding other means to enforce its observance, the *obligation* to do so, would depend upon the conscience of men only, and would be merely a *moral obligation*," &c. Thus, although in 1823, moral obligation could not "be given or taken away by human laws;" yet, in 1824, we are told by the *same authority*, that moral obligation may be given by human laws. Such are the contradictions, and in relation to any other than the Appellate Judges, it might be said, the absurdities, which the support of the new theory of obligation involves.

In truth, the Judges are mistaken in both cases. According to the old theory of moral and legal obligations, which is as old as the world, and will last as long, moral obligation may be created as well by human laws, as by the laws of nature. Our moral obligations are, to pursue that course of conduct which will best and most conduce to the happiness of the whole human family. Obedience to the laws of society, unless those laws are notoriously repugnant to the laws of nature, is one of the surest means of promoting human happiness, and, therefore, a moral duty, a moral obligation.

But the obligations which spring from human laws, are as well legal as moral. An obligation *purely moral*, is one which springs from natural law alone. An obligation *purely legal*, is one which springs from an *unjust law*, and in conscience, is no obligation at all. But the greater proportion of our obligations in society, are both moral and legal. Whatever is required by the moral law, we are under a moral obligation to perform; whatever is required by the civil law, we are under a legal obligation to perform. In the moral code, there is no remedial law, and if we disregard its obligations, we are punished by the contempt of men and the wrath of Heaven. In the civil code, there are both remedial and penal laws. If we fail to fulfil the obligations of our contracts, it gives remedy to the party aggrieved and punishes us with costs and damages. If we fail to fulfil our obligations to respect the property and persons of our fellow-citizens, it visits us with penalties, even to the destruction of life. But to say that remedy is the obligation of a contract, or that punishment is the obligation to refrain from fraud, theft and murder, is placing the effect for the cause, and reversing that regular order of things, which was ordained both by God and man,

In the quotation given above from the response, the Judges have *hit* upon the true source of *legal obligation*, viz. "the *requisitions of the civil law*," but finding that kind of obligation inconsistent with their unconquerable notion, that obligation consists in *remedy alone*, they contradict their previous declaration, and tell us that an obligation resulting wholly from municipal or declaratory law, is none other than a moral obligation.

In the opinion of the Chief Justice, (pamphlet edition, page 6,) he says: "As the remedy allowed by law upon a contract, is only the civil means which obliges to the performance of the contract, or to the repairing the injury done by a failure to perform it, the legal obligation of a contract evidently consists in that alone." In pages 7-8, it is declared that, from "the authority of jurists, as well as from the obvious reason and intrinsic propriety of the position, it results, that the legal obligation of a contract consists in the remedy given by law to enforce its performance," &c. In page 10, it is said: "To this objection the true answer is, that the obligation of a contract consists in the remedy," &c. In page 24, Judge Owsley says: "If, therefore, the legal obligation of contracts consists in the legal remedy," &c. Thus, the doctrine was settled in these opinions, that the legal obligation of contracts consists wholly and exclusively in the remedy allowed by law to enforce them. It is also a principle which runs through all their opinions, that the legal *right* which a creditor has, consists likewise in the remedial law; and that, when such law is repealed or ceases to operate, the right ceases to exist. Yet, in their response, they ask, with apparent exultation, "who denies that there is a difference [between right and remedy] perceptible by the meanest capacity?" One would be led to suppose, from this, that they had abandoned the ground, that right is remedy, and remedy is right; but in the case of *Stanley vs. Earl*, quoted in the response, they persist in denying a difference which they say "is perceptible by the meanest capacity." "But surely, (say they,) if the remedy may in any case be taken away or destroyed, and the legal right remain, there would then be a case in which there would be a legal right without a legal remedy, and it could not be true, that wherever there is a legal right there is a legal remedy. And what notions of identity must they entertain, who at the same time they tell us, that it may be truly and justly said, that the want of right and the want of remedy are the same thing," affirm, "that the want of remedy and the want of right are not the same thing? If the want of right is the same thing as the want of remedy, it is self-evident, that the want of remedy must be the same thing as the want of right; and to affirm that it is not, is not less absurd, than to affirm that the same thing may be, and not be, at the same time. With such reasoners as these, we cannot enter the lists of controversy. They must be left to themselves, and with Lord

Coke, we can only say to them, *contra negantem principia non est disputandum.*" This is the *uncourteous style*, with which the Judges treat those who now support principles, which, until lately, were *their own*. Is it not here asserted, that right and remedy are the same thing? The Judges might answer, no; it is the *want* of right, which is the same thing as the *want* of remedy, and the want of remedy is the same thing as the want of right; but there is a difference between right and remedy, *perceptible* by the meanest capacity! Now, if the want of one thing be the *same thing* as the want of another thing, then those two things must be the same thing; or, rather, it must be the same thing, under different names. And what notions of identity must they entertain, who at the same time they tell us that the want of one thing is the same thing as the want of another, affirm, that both names do not signify the same thing? We think it would be difficult to discover the difference between right and remedy, which the court say, is perceptible by the meanest capacity, and reconcile it with the foregoing declarations of the Judges, and the whole tenor of their decision.

But is there any thing so very absurd, in admitting that the want of a right is the want of a remedy, and at the same time affirming that the want of a remedy is not the same thing as a want of right? The want of a man, is the want of common sense; but the want of common sense is not the same thing as the want of a man; for many men are lunatics and idiots. A man may exist without sense; but sense cannot exist without a man. So a right may exist without a remedy; but a remedy cannot exist without a right, legal or moral. The Judges have themselves given an instance, already quoted, in which the law may create an obligation, and consequently a right, without giving a remedy. But to show that they do not always hold the language, that a want of legal remedy is a want of legal right, we quote the following declaration of the Judges, to be found in the case of *Butler vs. Butler*, 4th Littell 204-5: "It is the province of a court of equity to afford *remedy*, where conscience and *law* acknowledge a *right*, but know no *remedy*." So, here it is directly asserted, that law may acknowledge a right, and know no remedy; in other words, that there may be a legal right, without a legal remedy.

In the case of the *Commonwealth vs. M'Gowan*, 4th Bibb 62, the appellate court say: "Although the *right* existed in the Commonwealth, against the defendant, to the money which had been thus improperly drawn from her, yet it was not until 1809, that the remedy to recover it was specially given. By that act, (the act of 1809,) such a remedy is provided. The *right* existed before, but without such *special remedy*. The right of the Commonwealth, in this case, was created by the civil laws, and existed eight years at least, in the opinion of their Honors, without a legal remedy. And these are the assertions of the same men who say, in the case

of *Stanley vs. Earl*, that to assert that there can be a *legal right*, without a legal remedy, is as absurd as to "affirm that the same thing may be, and not be, at the same time." They are themselves, therefore, among that class of reasoners, with whom they "cannot enter the lists of controversy." They are themselves among the *negantes principia*, with whom *non est disputandum*.

In the response, the Judges say: "We deny that there is evidence of numerous legislative enactments in favor of such principles, and require the production of such laws," &c. "The clause in question was prospective, and it did not repeal the former existing laws of the States; and of course, laws which existed previously, and continued still to exist, cannot be used as an aid in construing the constitution. Virginia abandoned those laws six years after the constitution took effect, and Kentucky in the first year of her existence. The evidence we demand is this: Show us such laws made by the States since the adoption of the constitution, and retroactive in their operation, embracing pre-existing contracts, and then, and not till then, will we acknowledge that there are instances of legislative construction."

Without pausing to express our astonishment at this bold denial of facts, which constitute a part of the *notorious history* of our country, we take the Judges at their word, and give them the evidence which they so courteously require.

The convention which formed the present constitution of the United States, finished their labors, and submitted the result of their deliberations to the American people, in September 1787. In January 1788, the Legislature of Virginia passed an act repealing the pre-existing replevin law, and enacting, that in relation to all executions *thereafter* issued, unless the property levied upon would sell for three-fourths of its value, to be ascertained by persons appointed for that purpose, the defendant might replevy for twelve months; or if he did not replevy, then the property was to be sold on twelve months' credit. This act may be found in Henning's Statutes at Large, page 457. [See also, Session Acts, page 11.] The constitution was declared to have been duly ratified, by a resolution of Congress, adopted in September 1788, and thenceforward became the supreme law of the land. Let it be remembered, that the act of 1788, before alluded to, was a *retrospective replevin law*, and that its duration was limited to three years. In December 1788, not five months after the constitution was declared to have been ratified, this act was amended, without changing or repealing its retrospective features. In December 1790, this act, which was about to expire, in the succeeding January, was re-enacted and continued in force one year longer. The Judges may find the re-enacting statute in the 13th volume of Henning's Statutes, page 128. Here is the evidence for which the Judges called with such confident defiance, as seemed to indicate

their intention to surrender, if not their offices, at least their opinions, upon its production. Here is a law made by the great State of Virginia, since the adoption of the constitution, and retroactive too in its operation, embracing pre-existing contracts. But this is not all. The same *retroactive replevin law* was twice re-enacted afterwards, in the month of December 1791 and 1792. Thus did the State of Virginia *thrice solemnly affirm the constitutionality of replevin laws*, within the first five years after the adoption of the federal constitution. What will the Judges say to this?

After quoting from the speeches of Patrick Henry and Edmund Randolph, a few sentences which have no reference to the subject, they say: "The challenge may be given fearlessly, to produce a single adjudicated case, or one dictum of the patriots of that day, which gives a different construction to the clause in question, from that we have given." There is, it must be acknowledged, a great deal of logic in a bold challenge, especially when it comes from the head of the judicial department; but *sure*, it is not extravagant to suppose that there were some of the patriots of that day in the Virginia Legislature, in the years 1790-1-2 and 3; and *sure it is*, this same Edmund Randolph, from whose speeches they quote, to prove the unconstitutionality of replevin laws, was Governor of Virginia, and sanctioned, by carrying into effect, the first replevin law passed by that State after the adoption of the federal constitution.

The Judges say, "not an instance can be found, where Congress sanctioned such laws of any State, where such laws were passed since the adoption of the federal constitution." The constitution took effect, as stated above, in September 1788. In December 1792, the replevin and valuation law was re-enacted, and continued in force until the first day of January 1794. On the 18th of March 1793, Congress passed an act expressly recognizing and adopting the appraisement and replevin laws of the States, as they then existed, *including this law of Virginia*. What, then, becomes of this declaration of the Judges? "It crumbles at the touch." But we have not produced all the instances of legislative construction, hostile to that given by the court, found on the records of our country. Kentucky *did not*, as the Judges *assert*, abandon the replevin principle, the first year of her political existence. In October 1792, her first Legislature amended the existing laws, by reducing the existing twelve months' replevin, to a replevin of three months, where land taken in execution would not sell for three-fourths of its value, and enacting that there should be an absolute replevin on all executions issued for debts contracted before the first day of February 1793. The Virginia law allowed only a conditional replevin; this Kentucky law allowed an unconditional replevin, and was evidently enacted for the purpose of acting on pre-existing contracts; for it declared, that on all

contracts made after the first day of the succeeding February, no replevin should be allowed, except where lands were taken in execution. Here, then, the very first Legislature of Kentucky passed a replevin law, almost wholly retrospective, and, as the Judges would now say, unconstitutional. The valuation and replevin principles were never wholly abolished by Kentucky, but continued to operate, in cases where executions were levied upon lands, until 1799. In that year, a retrospective replevin law, granting a replevin of three months, without regard to the kind of property seized, or the date of the contract, was enacted by the Legislature, which continued in force, unquestioned, until 1808. That year, in consequence of the embargo, the Legislature passed an act granting a twelve months' replevin, not only on all original judgments, but upon executions issued upon replevin bonds; and for this law, William Owsley, one of the respondents, and many other distinguished men, voted. After the repeal of the embargo, the country reverted to the old three months' replevin system, which it continued to pursue until 1814. In that year, the calamities of the country led to another resort to this relief measure, and a twelve months' retrospective replevin law was passed, allowing, however, a collection of debts in three months, if the creditor would take the paper currency of that day. Among the distinguished men who voted for this law, is found recorded the name of Benjamin Mills, another of the respondents. This law was successively re-enacted and amended, until it was merged in the relief measures which have given rise to this unhappy controversy. But Virginia only closed her replevin system in the year 1797. She had graduated it by successive enactments, and provided for its expiration on the last day of July in that year; but, on the first day of February 1808, she revived the replevin law of 1793, and provided that it should be continued in force until *thirty days* after the discontinuance of the embargo; and on the 31st of January 1809, she passed an act authorising the debtor to give bond, with approved security, in the clerk's office, in the penalty of double his debt, and thereupon judgments, executions, replevin bonds, decrees, sales of property under decrees, and sales under deeds of trust, were to be *stayed* until the end of the next General Assembly. (See 2d Vol. Virginia Laws passed since 1801, pages 5 and 156.)

But Virginia and Kentucky are not the only States that have given a practical construction to the clause of the constitution now in question, hostile to that asserted by the Court of Appeals. The Legislature of the State of Massachusetts, in the year 1807, enacted a retrospective occupant law, containing, among others, the following provisions, in substance: "Where any action has been or may be hereafter commenced against a person now holding by virtue of possession and improvement, and which ten-

ant, or person under whom he holds, has had actual possession for six years before the commencement of such action, the jury who try the action, if they find for the demandant, shall, if tenant requests, find the increased value of the land by virtue of the buildings and improvements made by such tenant, or those under whom he claims; and if demandant requests, shall find what would have been the value of the demanded premises, had no such buildings or improvements been made thereon. Demandant to elect, during the term, whether he will abandon the premises to the tenant, at the price estimated by the jury. If he does so elect, tenant to pay it, with interest, in one year." [See Steam and Shaw's edition, vol. 2, p. 178, 216.] It provides further, that if demandant makes no election, no writ of possession to issue within one year, unless demandant pays, within a year, the estimated value of improvements, with interest; and no new action to be sustained, until demandant has paid such estimated value of the improvements, with interest. If tenant pays as above, his title is good against demandant, and if he shall be afterwards evicted by title adverse and paramount to that of demandant, he is entitled to recover back from demandant the money so formerly paid. [Idem 216.] By a subsequent law, the tenant was permitted to pay in three annual instalments. That State has also, as late as the years 1815 and 1818, provided by statutory enactments, "that real estate taken in execution, should be appraised, and delivered over to the creditor at valuation, redeemable by the debtor in one year." [See Steam and Shaw's edition of the Laws of that State, page 377, and 404 of 1st volume, and page 493 of 2d volume.] In the 4th volume of the Laws of Maryland, chap. 19, it will be seen, that that State, in the year 1808, enacted a law *staying executions* during the continuance of the embargo, and for six months after its discontinuance. In the 1st volume of the Statutes of Tennessee, page 109, an act of that State will be found, which passed on the 22d day of April 1809, staying executions *rendered or to be rendered*, upon the debtor's giving security, until the ensuing December. In Georgia, a law was enacted, in the year 1799, *staying* execution for sixty days, upon the defendant's giving bond with approved security. [See Georgia Laws, page 212.] The State of Maine, by an act passed the 23d of January 1821, and subsequent acts, exempted from execution, wearing apparel, beds, bedding, bedsteads, household utensils, tools of trade or occupation, stoves fixed for warming buildings, one cow, one swine, ten sheep and their wool, and three tons of hay for cattle and sheep. This law took effect from its date, and embraced existing, as well as future contracts. [See 1st vol. p. 414, 688, 72.] See, also, an act of Congress, passed in 1792, which exempts the arms and equipments of militia, and the uniform of officers, from sale by execution, and from distress and sale for taxes and suits, 1st vol.

Laws of Maine, p. 688, 702. In the Laws of Massachusetts, above referred to, it will be seen, that the Legislature of that State, in the years 1808-9-11, and in 1819, enacted laws in relation to debtors *confined* under execution, or *to be confined*, giving to them alike an enlargement of the rules or prison bounds. [See vol. 1, p. 204, vol. 2, p. 210, 503.]

The Judges have denied that there exists any judicial exposition of the 10th section of the first article of the constitution of the United States, except some dicta of inferior courts, not entitled to regard, different from theirs. Indeed, they challenge the production of a decision of any supreme court to that effect. Here, again, they are mistaken; for, in the case of David Alexander vs. William Gibson, decided by the supreme court of South-Carolina, to be seen in Nott and M'Cord's Reports, commencing at page 480, it was settled by that court, that an act of the Legislature of that State, discharging the insolvent debtor from all future actions, &c. at the suit of all suing creditors, or such as have received a dividend of his estate, assigned under his petition, is not contrary to the constitution of the United States. The court below had given a judgment predicated on the constitutionality of the statute; the appellate court affirmed the opinion of the inferior tribunal, as to that point, but reversed its judgment, upon the ground that the proceeding under the act had not been in conformity with its provisions. Judge Cheves, a gentleman not less distinguished as a profound jurist, than as an able and distinguished statesman, in pronouncing his opinion in that case, holds the following language: "I think it (an insolvent law) may be defined to be a law which may be properly considered a *part*, (and does not exceed the limits,) of the *lex fori*. An insolvent law may discharge a debtor from imprisonment. Imprisonment of the person of the debtor forms no part of the *lex contractus*," &c. Again; "Imprisonment on mesne process to answer the suit of the creditor, is, like imprisonment as a satisfaction of the debt, *no part* of the *lex contractus*. It is a part of the *lex fori*; and if the creditor resorts to it, he must take it with its concomitant conditions; and if these be the discharge of the person from confinement, and from the debt, upon the surrender of his property, they are conditions within the *just limits* of the *lex fori*. In both instances, it will be a discharge of the person and future estate of the debtor, at least so far as to require a *new promise* to revive the obligation. The case of the statute of limitations will illustrate this view of the subject. A foreign creditor, who sues in this State, to whose suit the statute of limitations of *this State* is pleaded, will in vain say that the debt was contracted in another State or country, by whose laws it is not barred. It would be answered, that the *statute* belongs, *not to the law of the contract*, but is a part of the *lex fori*, and must therefore prevail. So, in that case, though the creditor,

might recover against his debtor, in the country of the contract, or in any other whose laws for the limitation of actions would not embrace his case; yet, if, on the action he had brought in this State, there should be a final judgment against him, on the plea of the statute, there can, I think, be no doubt, it would be a conclusive bar to his recovery in the country of the contract, and in every other country."

It would seem, that the confidence of the Judges in denying the numerous legislative constructions of the constitution, must have proceeded from such a zealous devotion to their new theory, as to preclude the inquiries requisite for correct information on that subject; and if it be said, that they ought to have known, at least, the Virginia and Kentucky enactments to which reference has been made herein, it may be replied for them, that as soon as they had settled it, that all enactments upon that subject must be void, it was as natural and as easy for them to forget the past, as to resist and vacate the present; and that their facility in forgetting the former, would be increased by their zeal for the destruction of the latter. Instances have presented themselves, in which the zeal to establish and propagate *new theories*, has not only effaced the recollection, but even extinguished the intellection, of their votaries. A devotion to the discovery of the perpetual motion, which is believed to be about as practicable as the new theory of obligation, has not unfrequently resulted in the fatuity of the devotees. But, whatever may be the state of the recollection of the Judges, the people of the States of Massachusetts, of Maine, of Maryland, of Tennessee, of Georgia, of Virginia, and even of Kentucky, must be presumed to have possessed sound memories, and understandings competent to the comprehension of the import of the 10th section of the first article of the federal constitution, and to the management of their own affairs, according to the rule which it imposes. They ought, more especially, to be thought so, from the consideration that many of those enactments were made very soon after the adoption of that constitution; and their enactments ought to be considered as a practical cotemporaneous exposition of that instrument. Those laws, with but few, if any exceptions, are as well retrospective, as prospective, and evince the common-sense principle, that if it is wise to provide against future evils, it is not less wise, and more natural, to mitigate evils that are present and incumbent. They are all, moreover, predicated upon the obvious distinction, inherent in the nature of things, between right and remedy; or, as jurists say, "*the lex contractus* and the *lex fori*." The case quoted above, from the appellate court of South-Carolina, is predicated upon, and sanctions that distinction; and the reason that cases establishing this distinction, are not more numerous, is, that but few have had the hardihood to draw it into decision, by controverting it. It is only

since the intellect which was employed in the formation of the constitution, has been withdrawn by the destinies, from among us, that official power has acquired the confidence to negative the great principle upon which it rests. But will, or can the appellate Judges say, that the decision of the supreme court of South-Carolina is entitled to no weight? It is not the dictum of an inferior Judge. That tribunal was appellate, and its incumbents, some of them at least, among the most distinguished men in America. But the wisdom of that State had previously, by the enactment of the law in relation to insolvent debtors, declared the same sentiment, and thereby furnished another instance of legislative exposition of the contested section of the constitution. Will not the Judges yield to the force of the concurrent sentiment of so many States, and of the appellate decision from South-Carolina, and to the tacit sanction, at least, of that sentiment, by all the appellate tribunals of those States? For the sentiment could not have prevailed, if it had been wrong, against the reprobation of their respective appellate tribunals. That sentiment had the sanction of Judge Mills, but little more than a year ago. In the case of Blair vs. Williams, &c. he says: "For it will be seen, that I do not adopt the construction of the constitution, that obligation means *remedy only*, and that the *remedy* under which a contract was made, attaches to, and so incorporates itself with it, that the *same remedy* must be used to enforce it. In this respect, I differ in opinion with my brethren," &c. Two years ago, they concurred with him, in concurring with *all the world*, that right and remedy were distinct things, and that remedy might be varied at the discretion of the Legislature. Now, he concurs with them in differing from all the world, upon that subject. How long would they adhere, if *left to themselves*, to their present opinion? Society cannot bear the agony of the experiment? It cannot surrender the inherent right of varying its remedial laws, so as to suit them to those mutations in society, which are inseparable from the condition of man. The substitute proposed by their Honors, of relieving society from the calamities which may be inflicted upon it by war, famine, pestilence, &c. is about as Eutopian and visionary, as the new theory of obligation, and not less impracticable. It is to increase the calamities of society, by the calamity of increased taxation, in order to mitigate the evils which implore the remedial efforts of the sovereign power; that is, when the hardy yeomanry of the State are in the field, fighting the battles of their country, to let their wealthy and indolent creditors, ("who would themselves have been soldiers, but that the bowels of the innocent earth had been digged for the villainous saltpetre,") sacrifice their property and unhouse their families; and lest they might not be able to effect it, afford them the help of the ravenous tax-gatherer. They must have taken the idea from the instance

mentioned in Sacred Writ, in which Pharaoh provided by taxation, *in kind*, for the relief of the needy, during the seven years' famine, which were approaching; but they have overlooked the circumstance, that in that instance, Pharaoh was enabled, by the special premonitions of Heaven, to look with unerring certainty, up through a period of fourteen years, and to distinguish between the first and the last seven of them, and that the taxation took place during the seven *prosperous years*, and in the view to provide *relief* against the calamities of the seven years of famine—another instance in which Heaven was graciously concerned in the enactment of a relief law. Now, the project of the Judges is either to tax the people when calamity shall have visited them, for the purpose of mitigating that calamity, or in the same view to tax them in periods of prosperity. The first mode would be to aggravate, by the exactions of the tax-gatherer, the calamity which it was intended to relieve. The other mode would eventuate in a greater calamity than any which could be apprehended, as the subject of the contemplated relief. Taxation, in any, even the best government, is itself an evil which is only tolerated because of its necessity, and should, therefore, never be pushed beyond the extent of that necessity. But, by this plan of the Judges, the very necessity of the relief would be produced in the operation of the means employed to provide against its pressure, upon its arrival; so that, by the Judges' plan, society would have the credit of producing the calamity, and of relieving it, and that too by the proceeds of the means which produced it. This is surely an intellectual discovery! But could the Judges have supposed that this relief project would conceal the nakedness of their new theory, or at all recommend it to the acceptance of the people? The money in the public treasury belongs to the people, and there should not, on principles of sound policy, be at any time in the treasury, a single dollar beyond the sum necessary for the purposes of the civil list and the incidental contingencies. An accumulation of money in the treasury, beyond the needs of the civil list, is so much withdrawn from circulation, and thrown into a state of inaction, except so far as it may be smuggled into activity, through the means of the corruption and speculation which it would be sure to generate; but when it is considered, that money is the incentive to industry, as well as its reward, the impolicy of withdrawing it unnecessarily from among the people, will be readily perceived. Upon the supposition that there are one hundred thousand men in this Commonwealth, and that each should owe the other \$100, the aggregate debt would be near \$10,000,000. The whole debt would be extinguished by the circulation of \$100, paid by each to the other. But should calamity arrive, the government, in order to relieve, according to the judicial project, must have collected, and have on hand in the treasury, \$10,000,000, to give

or lend; and this, too, in preference to the exercise by the Legislature, of its remedial power, in the enactment of a six or nine months' replevin law. It is a wonder, this wonderful discovery had not been made by some of the above enumerated States, during the calamity inflicted by the embargo, non-intercourse, and war! Their mode of *relief* eventuates, like their construction, of the 10th section of the first article of the constitution of the United States, in *distress*. It is reprobated by every principle of sound policy, of which we have any knowledge.

The Judges, in speaking of the principle asserted in the report, that a law, before it should be vacated in the course of judicial decision, should be so obviously and palpably unconstitutional, that the public mind would sanction the decision vacating it, ask, in a tone that cannot be misunderstood, "To whom must it be obvious and palpable? To the idiot, the lunatic, the inebriate, &c. all of whom have a right to vote at an election?" The committee are restrained from making any comment upon this quotation, as well by respect for the Legislature, as by what they consider a becoming self-respect. Taken as a criterion of the estimation in which the Judges hold the people, its import cannot be well mistaken.

They then controvert the principle of the report, and assert, in substance, that the unconstitutionality of the law need only be obvious and palpable to the mind of the Judge before whom its validity is drawn in question, to justify him to declare it to be invalid. Here, as in every other instance throughout the response, which afforded the opportunity, the Judges, in effect, assert their exemption from responsibility, in the exercise of judicial power. Upon the principle which they assert, they may, without any responsibility whatever, declare every law on the statute book to be void, as it may be drawn into consideration in the course of judicial decision before them. They have said, at the threshold of their response, that they are not responsible for mere error in the course of judicial decision; they here assert, that the unconstitutionality of the law need only be obvious to their own minds, without any regard to the public mind or sentiment whatever. Irresponsibility follows. Was the blood and treasure of the revolution squandered in the exchange only of *regal*, for judicial tyranny? What constitutes tyranny, if it be not the power to dispose of the lives, the liberty and the property of the people, according to principles obviously clear and palpable to the mind of the tyrant, without reference to the public will? And is not that power asserted in the response, for the judiciary? The people compose the civil society; the Judges are their agents; the rules of their agency are prescribed by the constitution and the Legislature. And shall it be asserted successfully, by those judicial agents, that the import of the charter of their powers must be ascertained by

rules and principles which have reference to their own minds only? This would be true, if the people were really *all* idiots, lunatics, &c. but upon no other predication. Is not the tendency of this doctrine, to reverse the order of nature, and make regents of the agents, and vassals of the people?

Is not the love of liberty natural to man? And why, it may be asked, is it not universally enjoyed? Not because of its voluntary abandonment, but because of the perversion and abuse of the natural liberty, which is voluntarily surrendered, for the maintenance and protection of civil liberty. How, and by whom, is it perverted? By the public functionaries, in the gradual extension of their powers, under the plausible colour of official duty. The unsuspecting honesty of the people, accords to their functionaries that confiding indulgence, which emboldens them to make still farther and farther encroachments, until, before the people are aware, they assert as a right, what was at first conceded as an indulgence, and the liberty of the people, if not lost, is greatly endangered. The people are told, that they are a set of idiots; that they have no right to enquire if the law which the Judge has declared to be unconstitutional, is really so; it is enough if it has seemed obviously so to the mind of the Judge—that is exclusively his look-out; that the ship of State is under his pilotage and direction; that he has nailed the colours to the mast, and will not give up the ship. The crew have no right to see that she is well navigated, and kept in her proper latitude—that is a matter exclusively with the Judge. It was in that way that the free governments have all been lost. The struggles which have been made by the people, when awakened from their confidence by the galling encroachments of *power*, to the sad realities of oppression, have been charged upon them, by its *votaries*, and their minions, as an inherent vice, inseparable from their legislation, and destructive of their power of self-government. But a close attention to history, will correct and refute this ruinous error. History and observation will teach us, that the aspirations of ambition, associated with the inherent power of wealth, have inflicted upon the people those agonies, which are mistaken by the unobserving and the credulous, for the restlessness of anarchy, and the illusion is propagated by those whose interest it is, to conceal in *misnomer*, the enormity of their purposes, and their deeds. What has been denominated a spirit of anarchy in the people, is but “the divinity of liberty that stirs within them,” and sometimes displays itself in spasmodic efforts to break the fetters with which it was bound, while it reclined its confiding head in the lap of fiducial power, as did the strong man in that of Delilah; and like him, it has not unfrequently been shorn of its strength, while it slept. The inquiry as to how the people lost, and the usurper obtained the sovereign power of the State, is not only always uncourteous, but frequently dangerous. When

the sovereign power is obtained and exercised, it will be courted by very many, (such is the frailty of human nature,) no matter how got. Hence, the flatterers of royalty have been able to prove, by a very logical process, and entirely to the satisfaction of Kings, that their right to rule was divine. They stated that nature made all men equal; that no one had a right of sovereignty over another; that nature made no sovereign; that the social compact could only modify what nature had made; that sovereignty was not to be found among men, and the compact could not create it; but it existed in his majesty, and, therefore, Heaven must have conferred it. Hence the divine right of Kings. His majesty was not, we may be assured, hard to convince; the piety of the people was addressed, and their credulity invoked; they believed, and were, of course, enslaved. It can never be very material, to the people of Kentucky, who shall govern, or under what name they shall be governed, judicial or royal, until they shall have determined to surrender the right of self-government; and that they will not do, it is hoped, for a very long time, unless *idiots and lunatics* should multiply among them very fast. They cannot, therefore, for the present, have a less zealous interest in the maintenance of the constitution, than the three Judges. They cannot, we think, be decently said not to possess intelligence enough to comprehend its import, nor virtue enough to regard its obligation; nor can they feel themselves flattered, when they are told, that their understanding of its provisions is to be wholly disregarded, in its construction. But if the people of Kentucky could even acquiesce in the other enormities of the new theory, they can surely never agree, that punic perfidy shall be stamped upon them by judicial decision.

They cannot recognize as legitimate and sound, a theory, the principles of which, while they paralyze the legislative arm, inflict anguish on the bosom of society, and stamp infamy upon the State. The theory established by the Judges, denies to the compact between Virginia and Kentucky, any legal obligation whatever, upon either of the States. In 4th Littell's Reports, pages 325-6, Judges Boyle and Owsley record their sentiments to that effect, in the following words: "It is not, however, admitted, that the act has, in the slightest degree, impaired the obligation of the compact with Virginia. It is impossible for it to have done so, if we were correct upon a former occasion, in limiting the operation of the constitution to *legal obligations*, and in making the legal obligation of contracts consist in the remedy afforded by law; for it will not be pretended, that the law affords any legal remedy, either to the State of Virginia or to this State, in case either should violate the compact, and, of course, *there can exist no legal obligation* upon either State, and none such can have been impaired by the act." So that the doctrine of the Court denies to the compact

any legal obligation whatever; and it can have no moral obligation, because, according to the same theory, moral obligation results exclusively from the laws of nature; but if it had moral obligation, it would be unobligatory for the want of a remedy. But they cannot "conceive of an obligation which does *not oblige*;" so that in every view, the compact is, according to their theory, unobligatory. * Judge Mills dissented from the other two Judges, in that opinion. He now, however, concurs with them, in asserting the theory of obligation, which led to that result, as appears from their joint signature to the response.

So that it would seem that the compact with Virginia, was incorporated into the constitution of the State of Kentucky, and made, by the convention, a substantive part of that instrument, to no purpose. It was idly believed by the people, to be as sacredly binding as their constitution itself. Their belief in its obligatory effect, was strengthened by the decision of these same Judges, pronounced in the case of *Hoy's heirs vs. M' Murray, &c.* affirming the obligatory effect of that compact. That opinion will be found in 1st volume Littell's Reports, page 364. That opinion is quoted by the Supreme Court of the United States, in their decision of the case of *Green and Biddle*; in which decision by the Supreme Court, the obligatory effect of the compact is affirmed, and the occupying claimant laws of Kentucky, vacated by the obligatory force allowed to it by that Court. But the compact itself, the constitution of the State, and their own previous decisions, and that of the Supreme Court of the United States, must all *now yield* to the *force and obligation* of the new theory. But what is worse, the reputation of the State must be inverted; the State must be proclaimed to be *faithless and perfidious*. Let the hundreds who have been ruined, and the thousands who have been greatly injured, by its obligatory force, and who were not even tempted by their sufferings to tarnish their honor, by the assertion that it was not, and ought not to be considered as obligatory upon the people of both States, say whether they are willing to subscribe to this new doctrine. The people of Kentucky are too magnanimous and high-minded, to agree to be absolved from the obligation of that compact, by the operation of the new doctrine, or by any other means than the consent of the two States. They never contended for more than for a fair and just construction of that compact; they can never agree to escape from its effects, by denying its obligation. *Si non honeste tamen, decore*, is a sentiment which they think should form the ultimate barrier, among even the most degenerate people; they will never agree to approach, or even be driven to that limit. The Kentuckians cannot consent to their absolution from the obligation of the compact, so gratuitously and so unexpectedly offered to them by the Appellate Judges. They want only the rights of freemen; they will maintain them, and

with them the just pride of State character—the former by every legitimate mode; and the latter, by acknowledging and observing with good faith, the obligations of the compact which gave birth to the State.

It cannot but appear somewhat strange, that the Judges should have defied the production of a single decision of a superior tribunal, in contravention of their new theory, when it is considered that the Chief Justice had found it necessary, in the case of *Blair and Williams*, to overrule a decision of the Supreme Court of the United States, which negated the construction of the constitution, upon which that theory rests. Surely the decision in the case of *Green and Biddle*, above alluded to, giving obligatory effect to the compact, is contrary to their decision vacating it; and surely that is the decision of a superior tribunal. The decision quoted from South-Carolina, is the decision of the supreme appellate tribunal of that State; and their own decision, in the case of *Hoy's heirs vs. M'Murray, &c.* giving obligatory effect to the compact, they must acknowledge to be the decision of a superior tribunal. The previous decisions of themselves and their predecessors, acknowledging the obligation of the compact, were all of appellate character; and all these, and the decisions, it is believed, of the civilized world, contravene their new doctrine. Hear Huberus, that able jurist, upon this subject. He says: "The reason is, that *acts of limitation and modes of execution*, do not belong to the *essence of the contract*; but to the time and *manner* of bringing suits, which is a *distinct thing*; and, therefore, it is established upon entering a judgment, the law of the place where it is rendered, is to govern, although it respects a contract made elsewhere." See 3d Dallas' Reports, page 373, in note.

It is to be regretted, that the Judges had not adopted a less servid and positive manner, in their response. The soundest logic, and the most convincing reasoning, are not always associated with terms of acridity and defiance, even in the discussion of political party questions. From the judicial appellate tribunal of the State, indications of political servor, are not to be expected. Its incumbents are not the head of a party; they are the Judges of the State. Besides, it was alike due to the magnitude of the *question*, to the *people and themselves*, that they should have abstained from the envenomed innuendoes in which they have so liberally indulged. These considerations, as well as the intrinsic unfitness of such a course, forbid recrimination or comment, in kind.

We cannot but think that the Judges have been unhappy in the complaint which they utter, towards the close of their response, against our late excellent Chief Magistrate and his worthy successor. It was the duty of those gentlemen, occupying, as they respectively did, the Chair of State, to communicate to the Legislature, whatever they believed to be interesting to the people. They

did but invite legislative attention to the new, and, as they believed, dangerous theory promulged by the judiciary. They would have been faithless to the constitution, the people, and themselves, had they acted differently. If the new theory had possessed the merit which is ascribed to it, then would the executive communications complained of, have been the harbingers of the glory of its votaries. But if, on the contrary, it was in reality an experimental exercise of power in the judicial department, forbidden by the genius of the government and the best interests of the country, and they had, by their silence, connived at its exercise, they would have incurred the imputation of a dereliction of official duty, for which they ought not to have been forgiven by the people, who, it is insisted, notwithstanding there are among them some *idiots, lunatics* and *persons of intemperate habits*, constitute the tribunal by which the merit of this experiment must be ultimately decided. The Governors, therefore, to whom the querulous allusion is made in the response, are entitled to the approbation of the people, and, if the respondents are right, to their gratitude.

The closing address of the respondents to the sympathy of the people, is believed to be peculiarly unhappy, both in matter and manner. If the people are right in their reprobation of the new theory, they cannot be supposed to be so callous to the agonies it inflicts on them, as to sanction the continuance of their own anguish, by their sympathies for the official sensibilities of those who inflict it. There are occasions in which sympathy is unfeeling cruelty. This is believed to be of that description. Besides, it is intrinsically a subject, the merits of which are to be decided by the understanding, and not the sympathies of the community. The question is solely, whether the legal obligation of a contract consists exclusively in legal remedy—whether right and remedy are identically the same thing, and the former consists, always and exclusively, in the latter, and cannot exist without it; and consequently, whether the legislative power can be, at all, exerted for the melioration of the human or social condition—whether that power can be exercised in the enactment of execution laws, occupying claimant laws, limitation laws, &c. or whether the discretion of the judiciary shall occupy the place of legislative will. Reason is surely competent to the decision of this question. It is the same in principle, which was decided by the American revolution. It is, whether the people shall govern, or be governed by the *few*, or a *still smaller number*; and an address to the sympathies of the American people, by George the third, in favor of the prerogative powers which he asserted, would have been as appropriate, as the address in the response in favor of judicial prerogative. The ravages made by the latter prerogative among the people, upon their interests and their hopes, furnish ample matter for just sympathy—a sympathy incompatible with that employed by the respondents. But must not that course of judicial decision be miserably weak,

indeed, which reposes for its support, not upon the *intelligence*, but upon the *sympathy* of the people? And can it be supposed, that a people whose understanding is defied and outraged by a course of judicial decision, can lend the aid of their sympathies to its support? And can they, who, when they claim that a law shall be obviously and palpably in conflict with the constitution, before it is annulled by their judicial functionaries, are told *expressly*, that the only understanding to be addressed or regarded, is that of the judiciary; and by sarcastic *implication*, that their understanding is incompetent to the comprehension of matters of that sort; that there are among them idiots, lunatics, inebriates, &c. who have a right to vote—can they, ought they to withdraw their sympathy from their own sufferings, and devote them to the support of their agents, who, by inverting the laws of agency, and of nature, inflict those sufferings? The pride of usurpation should not invoke it; the sufferings of oppression should not accord it. It is true, they have served long; it is also true, that they have been paid for their services; and it is likewise true, that they have experienced the confiding indulgence of the community, to an extent not surpassed in any country; and it is not less true, that the present effort to remove them, has been extorted from a patient, high-minded, reluctant people, by an assertion of judicial power, in which it would be criminal on their part to acquiesce—a people who, while they have the most sacred regard for judicial independence, have a strong consciousness of their own rights, and who would believe they were faithless to themselves and to posterity, if they should surrender them to judicial encroachment.

Your committee cannot conclude, without expressing their deep regret, that the Judges should have attempted, by the construction which they have given, in their response, to the 3d section of the 4th article of the constitution of the State, to pervert its obvious and recorded meaning, and thereby intrench their errors in their resulting irresponsibility; and beg leave to recommend for the adoption of the Legislature, the following resolution:

Resolved by the General Assembly of the Commonwealth of Kentucky, That the Legislature thereof do possess the power, under and by virtue of the import of the 3d section of the 4th article of the constitution of the State, to remove, by address to the Governor for that purpose, any Judge of the superior or inferior courts of this Commonwealth, from office, two-thirds of each house concurring therein, for any mere error of judicial opinion, which does not amount to misdemeanor in office, notwithstanding that error shall have been committed in the course of judicial decision, if it shall inflict upon the community such injury as in their belief shall amount to a *reasonable cause* for his removal from office, provided they observe, in doing so, the form of proceeding prescribed in such case by the constitution.

RESOLUTIONS requesting the Representatives from this State in Congress to vote for Andrew Jackson as President of the United States.

WHEREAS it appears from the result of the elections in the several States and the formation of the electoral colleges, for choosing a President of the United States, that no person will receive a majority of electoral votes, and that Henry Clay, who was the first choice of the people of Kentucky, has not received a sufficient number of votes to bring him before the House of Representatives, as one of the three highest, from whom the choice of the President of the United States is to be made: Therefore,

Resolved by the Senate and House of Representatives of the Commonwealth of Kentucky, That the members of the House of Representatives in the Congress of the United States from this State, be requested to vote for General Andrew Jackson as President of the United States.

Resolved as the opinion of this Legislature, That General Andrew Jackson is the second choice of the State of Kentucky, for the next President of the United States; that a very large majority of the people of this State, prefer General Jackson to Mr. Adams or Mr. Crawford; and that the members of the House of Representatives in the Congress of the United States, will, by complying with the request herein signified, faithfully and truly represent the feelings and wishes of the good people of Kentucky.

Resolved, That the Governor of the Commonwealth of Kentucky, be requested to forward forthwith, a copy of the foregoing resolutions, to each of our Representatives in the Congress of the United States.

[Approved, January 11, 1825.]

PREAMBLE and RESOLUTION for procuring a portrait of General La Fayette.

WHILST the people of the United States are testifying their gratitude for the distinguished and generous services of General La Fayette, in the American revolution, the people of Kentucky would gladly co-operate in handing down to posterity, the fame, and in preserving a likeness of the man whose generous devotion to the cause of freedom and liberal principles in two hemispheres, have been so conspicuously displayed.

A portrait of the man is calculated to call up the associate ideas of the talents and virtues by which he acquired his great reputation, and to increase and strengthen the moral effects and advantages resulting from the great principles with which his fame is connected.

Every citizen of Kentucky is eager to look at La Fayette. In viewing him, the glory of our country, the principles of the revolution, the greatness of the object, the toils, anxieties, constancy

and patriotism, employed in the pursuit of it, and the precious value of liberty, are kindred ideas.

A man born and nurtured in Kentucky, grown in its forests and canebrakes, by force of his native genius, exerted under the benign influence of free government and equal rights, has distinguished himself in the art of painting. Such an artist is an appropriate instrument to be employed by Kentucky in preserving a likeness of La Fayette, and in testifying her gratitude for his services, which have so eminently contributed to bring forth that political freedom, independence and sovereignty as a State, which she enjoys in common with the rest of the United States: Therefore,

Resolved by the General Assembly of the Commonwealth of Kentucky, That the Governor be requested, and he is hereby authorized, for and on behalf of this State, to employ Matthew H. Jouitt, to take a full length portrait of General La Fayette.

Resolved, That the Governor be requested to cause these resolutions to be made known to General La Fayette, accompanied by an earnest solicitation on behalf of this General Assembly, that he will permit Mr. Jouitt to take the portrait.

Resolved, That the portrait, when taken, shall be placed in the Representative hall of this State, there to be preserved as a memento of the high regard in which the State holds the services of that illustrious man, and of the devotion of the good people of this State, to the principles which his distinguished services contributed to establish.

[Approved, January 12, 1825.]

A RESOLUTION for ceding to Congress certain land in this State, for the site of an Armory.

WHEREAS the present General Assembly of Kentucky anticipate a lively hope that the general government will establish an Armory on the western waters, whenever a suitable site can be procured; and whereas it is now hoped, that the company incorporated at this session, for constructing a Canal around the Falls of the Ohio river, under the name and style of the "Louisville and Portland Canal Company," will achieve, in the shortest practicable period, that great object:

Be it therefore resolved, That should the Congress of the United States establish an armory near Louisville, in connexion with the said Louisville and Portland canal, by arrangement with the company for the requisite water-power, this State will, by law, concede to the United States exclusive jurisdiction in and over the territory necessary for that object.

[Approved, January 12, 1825.]

A RESOLUTION requesting the Governor to open a correspondence with the Governor of the State of Tennessee, in relation to the Road from Danville, by way of Columbia and Tompkinsville, to Murfreesborough in Tennessee.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the Governor be, and he is hereby requested to open a correspondence with the Governor of Tennessee, on the subject of the State road from Danville in this State, by way of Columbia and Tompkinsville, to Murfreesborough in Tennessee; that he communicate to him the measures taken by Kentucky, to open and preserve said road, and respectfully solicit the attention of that government to the expediency of complying, and permitting the road to be opened to this point.

[Approved, January 12, 1825.]

A PREAMBLE and RESOLUTION instructing our Senators, and requesting our Representatives in Congress to support the passage of a law re-organizing the Supreme Court, in conformity to the propositions contained in the remonstrance of the Legislature of this State, adopted at the last session.

THE General Assembly, at its last session, remonstrated to the Congress of the United States, against the principles attempted to be established by a minority of the Supreme Court, in the case of *Green and Biddle*, decided at their preceding term. The Senators and Representatives from this State, promptly presented the remonstrance and documents to that body, and as early as practicable, pressed the subject on their consideration. Congress was crowded with important national subjects of immediate concern, and the session was drawing to a close; yet the complaint of Kentucky was taken up in both houses, and strong indications were given, that her cause was considered the cause of every other State, and that every undeviating republican and inflexible defender of the true principles of our Federal Union, would not only be found in the support of the propositions contained in the Remonstrance, but also of such other changes and reforms in the Judicial Department of the Federal Government, as may be necessary to defend the States from the further encroachments of that powerful tribunal.

It is unnecessary for the present General Assembly to add any thing to the unanswered, and, it is believed, unanswerable arguments against the opinion of the Court, contained in the petition of Messrs. Rowan and Clay, accompanying the remonstrance, if, indeed, ought could be added, to make the error of the Court more palpable; and whether they consult their own judgment, the sentiments of the people of Kentucky, or the indications in the Congress of the United States, it would seem equally superfluous to add any thing to the remonstrance itself, for the purpose of vindicating the justice, the policy, and the necessity of the course

which the General Assembly has pursued, to vindicate the *insulted rights* of their state and their constituents. Kentucky could not make more evident, the wrongs she has endured, and the claim she has upon the Congress of the Union, for ample security against future sufferings and degradations.

But it cannot be disguised, that great efforts have been made, and extensive means employed by those who substantially maintain the supremacy of the Federal Judiciary, and whose interests have been advanced by the decrees of the Court, to impress upon the national government and our sister States, that the people of Kentucky have and feel but an inconsiderable interest in the occupant laws thus attempted to be repealed, and are ready to surrender them, as unjust in principle, and repugnant to the compact with our parent State; that they are not opposed to the general principles attempted to be established by that tribunal, and entertain no apprehensions from the application and extension of the degrading doctrines in that and other opinions asserted; that they are ready to yield whatever the Judges may demand; that the measures of the last session were but the effect of a temporary agitation in the public mind, and a rebellious spirit in the General Assembly, which had spent themselves in the effervescence of the moment, and left the State in a disposition to abandon the question, and quietly submit to the unconstitutional mandates of judicial authority. Hence, it is deemed not only politic, but necessary for the present General Assembly emphatically to declare, that on this subject they fully accord with the sentiments expressed in the remonstrance of last session, and by the Governor in his enlightened communication at the commencement of the present session, and that, in their opinion, the same sentiments are entertained by the great body of the people of Kentucky. They have always believed, and do now believe, that the occupant laws attempted to be vacated by the Court, violated no principle, either of constitutional or moral law, and are entirely consistent with the compact with the parent State; and were, at the time of their enactment, imperiously required by the condition of the country, and are still essential to its repose. They view the decision of the Court as not only unconstitutional and erroneous, but as asserting principles which are dangerous to the political liberty of the State, and to the civil liberty of its citizens; and taken in connexion with the general tenor of the decisions of that tribunal on constitutional law, and the spirit which has been displayed by their adherents, as threatening an annihilation of the States and a consolidation of the Union. And the General Assembly and the people of Kentucky view the reports sent abroad, of their readiness to acquiesce in principles so monstrous, as groundless calumnies upon the State character, and upon the patriotism and firmness of the people, and calculated to aid in the prostration of State sovereignty, the main pillar of the Federal Union and American liberty.

It might seem to be incompatible with that confidence with which Kentucky looks to Congress for redress of the wrongs under which she suffers, to press directly upon that body a renewal of her complaints, at so early a period; but, viewing the subject of the remonstrance as not only important to the people of Kentucky, but involving the very principles of that government under which the American States are so happily united, the General Assembly deem it proper, through the immediate representatives of the State, to urge on the early attention of Congress, and to declare that they consider it does as far transcend in importance, any other subject which may probably command their attention, as the fundamental principles of the government rise above the details of its administration: Therefore,

Resolved by the General Assembly of the Commonwealth of Kentucky, That our Senators in Congress be instructed, and our Representatives requested, to urge upon the early attention of Congress, the subject of the remonstrance of Kentucky against the decision of the Supreme Court of the United States, annulling the occupying claimant laws of this State, and employ their best efforts to obtain the passage of acts of Congress in conformity to the propositions in the remonstrance contained.

[Approved, January 12, 1825.]

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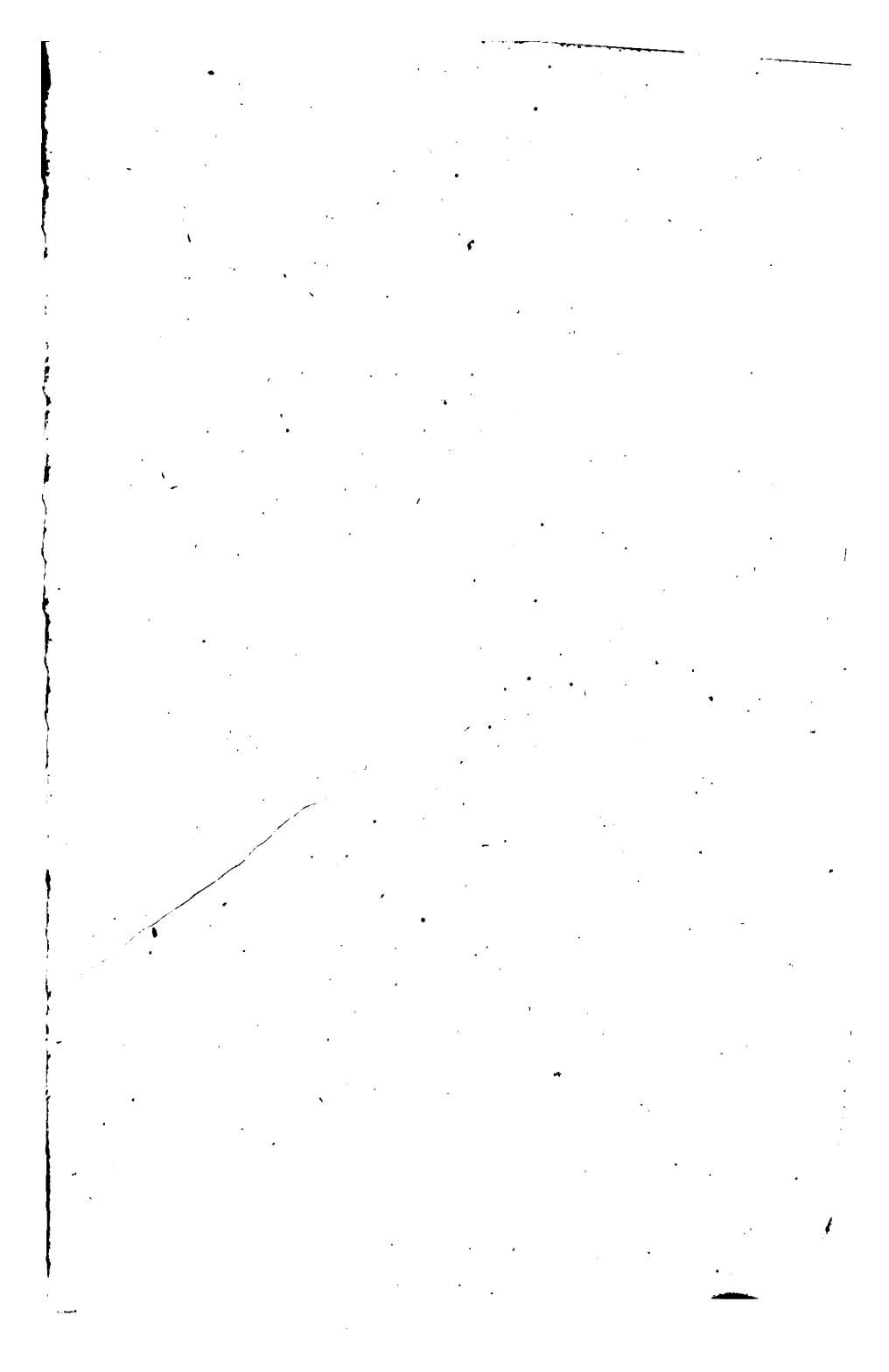
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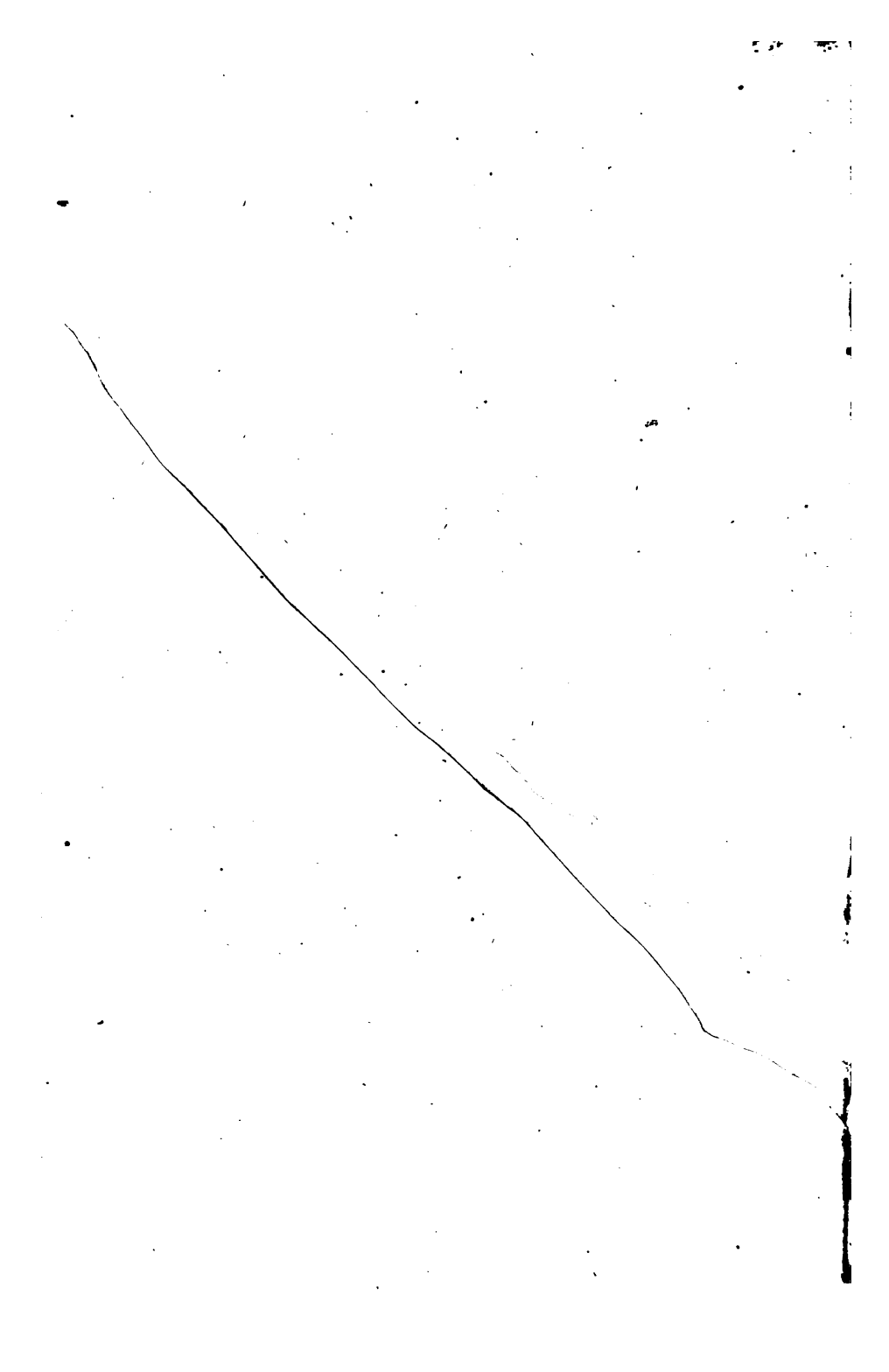
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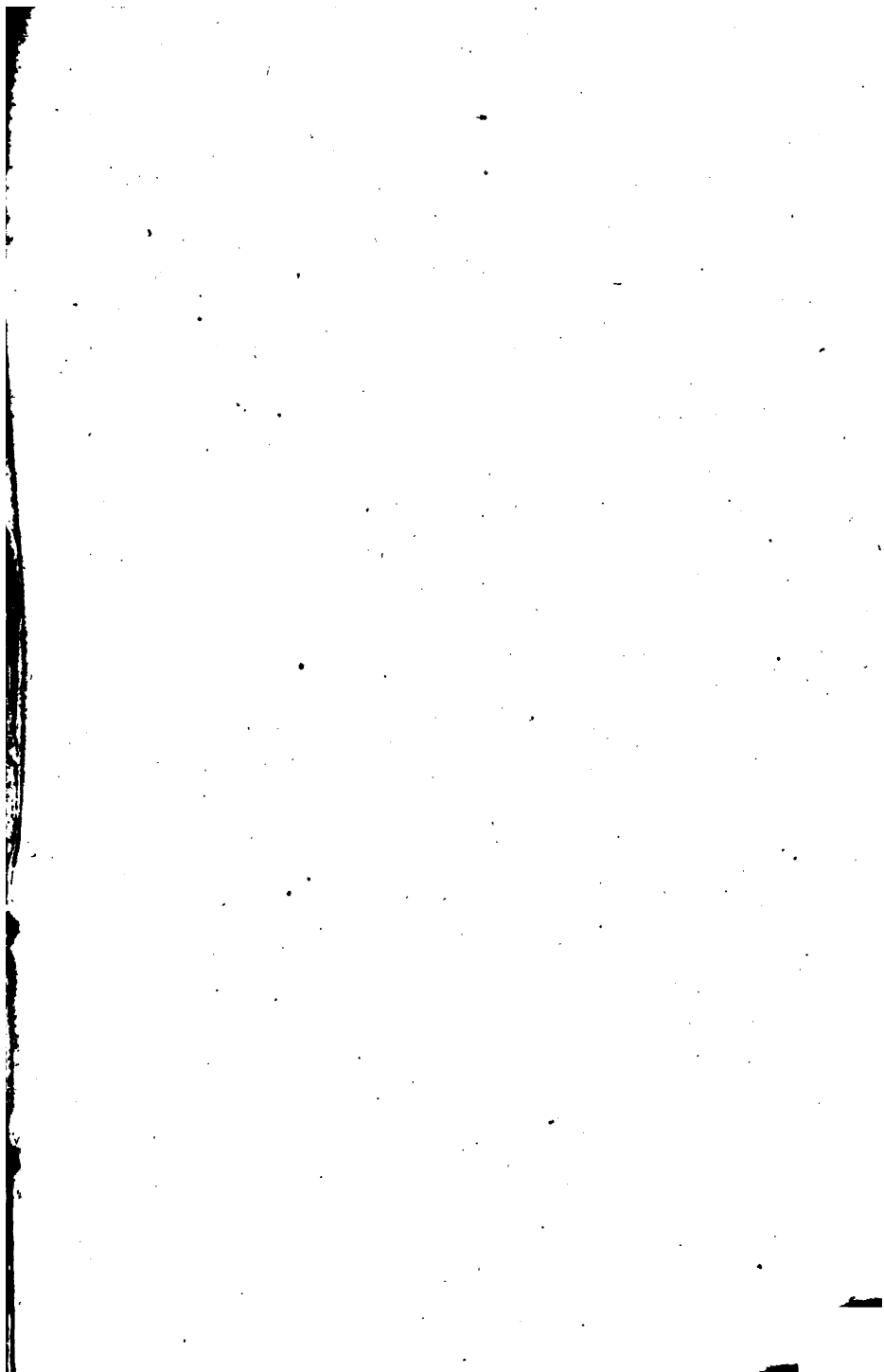
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